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THREE SPEECHES

DELIVERED IN THE HOUSE OF COMMONS

IN FAVOUR OF A MEASURE FOR

AN EXTENSION OF COPYRIGHT.

By T. N. TALFOURD,

SERJEANT-AT-LAW.

TO WHICH ARE ADDED,

THE PETITIONS IN FAVOUR OF THE BILL,

AND

REMARKS ON THE PRESENT STATE OF THE COPYRIGHT QUESTION.

"Is there no patron to protect the Muse,
And fence for her Parnassus' barren soil?
To every labour its reward accrues,
And they are sure of bread who swink and moil,
But a fell tribe the Ausonian hive despoil
As ruthless wasps oft rob the painful bee:
But while the laws not guard the noblest toil,
Nor for the Muses other meed decree,
They praised are alone, and starve right merrily."

CASTLE OF INDOLENCE, Canto II.

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TO

WILLIAM EWART GLADSTONE, ESQ., M.P.

STUDENT OF CHRISTCHURCH.

My dear Sir,

The permission which you gave when, last year, I proposed the compilation of this little volume, to inscribe it to you, is one of the chief reasons of the renewal of my wish to publish it. I cannot decline the opportunity of recording that the exertions of those to whom the charge of the Copyright Bill has fallen, have been aided by the advice, and cheered by the kindness, of one whose genius naturally sympathises with the efforts of those who write for posterity; who, unchanged by the excitements and successes of parliamentary life, cherishes academical associations with reverent ardor; and who, amidst the cares and the struggles of party, pursues Truth with as patient labour, and as single an aim, as the heroic student of other times.

I have the honor to remain,

My dear sir,

Your faithful friend and servant,

T. N. TALFOURD.

Monmouth, 16*th Jan.*, 1840.

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PRESENT STATE

OF

THE COPYRIGHT QUESTION.

THE Copyright Bill is now on the point of its introduction *for the fourth time* to the House of Commons. The following pages, which comprise its history, show that although delayed it has never been defeated; but that, on the contrary, the majorities in its favour have been proportionably largest, when the largest number of members have divided on its principle. Its withdrawal in the Sessions of 1837 and 1838, arose from circumstances which could only be regretted; but the disappointment which awaited the efforts of its supporters last year, is mainly attributable to the mode of opposition which Mr. Warburton pursued, in requiring that it should not be discussed on the only evening on which its

discussion was feasible, and enforcing that requisition by occupying the time appropriated for that discussion by consecutive divisions. That such was the impediment that stopped its progress is obvious from the fact that, after the 1st of May, when its details might have been the subject of an entire evening's deliberation, and of which five hours were occupied in divisions, before the House was permitted to consider a line of the Bill, although its supporters took every chance which seemed open to them, and had the benefit of an acknowledged claim on Government for some allotted time if it could be obtained, they never once were able to bring on the discussion down to the 8th July, when it was withdrawn—and when the opportunity for stating in a few words the grounds of its withdrawal was not obtained till half-past one in the morning. It is hoped that such a mode of opposition will not be renewed; but its past success renders it important to consider whether it is fitting that such a power should be so exerted;—and the inquiry becomes the more important because the

power has been wielded by a gentleman whose integrity and disinterestedness must be granted, and whose consciousness of an earnest desire for the public good enables him to withstand the influences of feeling and opinion, which could scarcely be withstood by a Member of less singleness of aim and purity of motive.

In order that the merits and the workings of Mr. Warburton's opposition may be generally understood, it is necessary to introduce some statements as to the practice of the House of Commons which are familiar to its Members. By that practice, Orders of the Day have precedence on Monday, Wednesday, and Friday;—Notices of Motion on Tuesday and Thursday;—until the state of public business, towards the close of the Session, induces the Ministry to ask and the House to grant, on one or both of the two latter days, precedence to Government Orders over Notices. On Monday and Friday the Government determine the course of business; and as there are generally many more Government Orders on the Book than it is possible to discuss,—

(sometimes only one out of five or six occupying the whole evening), it follows that, on these nights, an Order to be moved by a private individual, can only be discussed if some accident should occur to postpone all the Government business, and such accident should not also reduce the Members present in the House below the number of Forty. On Tuesday and Thursday, when notices have precedence, it rarely happens that any Order of the Day is discussed at all;—for besides the probability that the Debates on the Notices may have sufficient interest or allow sufficient ground for debate to occupy the evening, there is the chance that they may be so tiresome, or their subjects so inconvenient, that the Members necessary to constitute a House may fail. Wednesday, then, is the day—and the only day—appropriated to the discussion of Bills, (after their first introduction) which are conducted by private Members of the House; and the only day on which it is possible for such a Bill to occupy a place on the Order Book which will ensure its discussion. As the Orders which are

not reached on one night do not go over to the next, and displace those which are already fixed, but are reappointed for any day which seems to offer a chance for their discussion, at the discretion of the Mover, the course of a Member who desires a full and fair deliberation of a measure is not to take a remote chance or an early day, but to fix his Order for a distant day, when he can ensure its precedence;—and this it is obvious he can only effect by adhering to Wednesday;—as any other day, he has a bare possibility of a hearing, and an absolute uncertainty as to the hour at which that hearing may be obtained. If, on the other hand, he wishes to smuggle a measure through the House, his course is to take his chance every evening, and so tire out his opponents, or take the opportunity of advancing his Bill a stage after midnight. The course adopted in the case of the Copyright Bill was invariably the former, until the course pursued by Mr. Warburton prevented its continuance. A distant Wednesday was selected; ample notice was thus given; and the discussion

always commenced at an early period of the evening, when the attention has been unwearied, and both friends and opponents had the fairest opportunity of speaking and voting upon it.

The grounds on which Mr. Warburton justified the use which he made of his power as a Member of the House, to prohibit the discussion of the Bill on Wednesday, were two :—1st. That, on that night, the Ministers of the Crown do not usually attend; 2dly. That, on that night, the attendance of Members is scanty. Now, as to the first, the fact failed, because, at the time when he commenced his series of divisions, no less than ten Cabinet Ministers were present; and, at least, he might have permitted the Committee to proceed till some of them went away. But, supposing the fact to be as assumed, is it not unreasonable to render the voluntary absence of Ministers a reason why a measure which is unconnected with party should be stifled? The Ministers, last year, were divided in opinion on the measure; the Chancellor of the Exchequer and Lord Morpeth supported it, while others, though not actually

opposing it, doubted its policy. Why should their attendance on either side be essential to its discussion? The question is not one which requires official habits or accomplishments to understand its bearings, nor to the discussion of which a Minister can contribute any information which is not open to all, but one on which every scholar and thinker, in or out of office, has equal competence to form a judgment. As there never was a question agitated in Parliament from which the spirit of party was more entirely excluded, or one more directly applicable to a range of feelings and of consequences beyond the province of an executive government, so there never was one to the progress of which the absence of Ministers from the debate could be less justly presented as an obstacle.

The other objection also—the scantiness of attendance—was answered by the fact, that it was made in the presence of 150 Members. But it was urged, that as the evening advanced that number would probably diminish; true; but why not wait till the apprehended event arrived? or why not object to the discussion of every

question in which the same diminution of numbers may be expected? If this rule were applied to all questions—there is scarcely any, even of the most urgent and exciting kind, which Mr. Warburton should allow to proceed. It is notorious that between the hours of seven and ten, even when questions on which the fate of parties depend are debated—as the Education Vote and the Jamaica Bill of last session—the House dwindles almost to the point when it may be counted out; but Mr. Warburton moves no adjournment then! Besides, supposing a debate on the details of the Copyright Bill to begin on Monday or Thursday, in a full house, is there any process by which Members who have been attracted by mere exciting subjects can be compelled to stay? Debate them when you will, you will only retain those who take an interest in the question; and a fair attendance of such Members on both sides is far more likely to be obtained and kept on a Wednesday fixed for the purpose, than on any fortuitous occasion on another evening. Surely these are not grounds on which it is just

for an individual Member to prohibit the progress of a Bill on the day appropriated to Bills conducted by unofficial Members,—especially a Bill which has been before the House for three years, and has been debated until the arguments on each side seem almost exhausted!

In adverting to the state of the argument, however, it is obvious that it has been embarrassed by the introduction of a term—greatly extending the authors' right—but still admitting a right to limit it. Although Sir Robert Inglis and myself, with some other supporters of the Bill in Parliament, and a great majority of its advocates of the press, have always asserted the justice of restoring perpetual copyright, we felt, at the commencement of our labours, that the limitation had prevailed so long, as to preclude a reasonable hope of destroying it, and we, therefore, presented a measure, which we felt to be a compromise. While this moderate course has secured the co-operation of some who would have shrunk from the partial maintenance of the bolder proposition, it has perplexed the controversy, and has sometimes made the question

appear one rather of expediency than of justice. If, however, the arguments on both sides be examined, each will be found to start from a point so distinct, and to proceed in a course so different, that they have scarcely been brought into collision, and the advocates of each have not only remained unconvinced by the reasonings of their opponents, but have been unable to comprehend their force. The advocates of the Bill proceed on the assumption that an author has *some property* in the creations of his own mind, after he has communicated them to the world through the medium of the press;—that this property is as sacred, and as much the subject of legal protection, as any tangible wealth which may be inherited or acquired; and that the laws of political economy and of social justice by which the gains of industry are secured to the party who acquires them, to the exclusion of mankind at large, are as applicable to the products of thought, or imagination, or research, as to a merchant's capital; and being so applied directly for individual benefit, are as clearly for the benefit of all, cherishing the same motives to

exertion, by securing the same rewards to success. On the other hand, the opponents of the Bill assume that there is a paramount right in the body whom they call "*the Public*,"—that is in those who read, and in those who, for their own gain, supply readers with books—to the productions of an author's industry or genius, so soon as he shall have published them; and that any term of exclusive right which may be awarded to the author, is mere matter of grace and bounty; in derogation of this right of the public; and. which it is the duty of those who guard the interest of the public to render as short as they can, so that they leave sufficient inducement to an author to compose and to publish. Thus, when Mr. Warburton characterized the Bill, "as just such a one as we might expect to see issue from an assembly of masons, carpenters, or shoemakers, legislating on their own affairs"—and as "one in which the public interest is not in the least consulted"*—its supporters did not feel these to be charges they were required to answer; but that

* Mirror of Parliament, p. 573.

if masons, carpenters, or shoemakers, found the pecuniary rewards of their labour confiscated by law, they would have precisely the right which authors claim, to ask the restoration of their own, and to deny the justice of enriching the nation at their cost. Thus, when the Solicitor-General—now adorning the Exchequer bench—expressed his opinion, "that books should be had for the benefit of the public at the lowest possible price; and, therefore, no greater inducement should be held out to authors than may be necessary for securing the production of the desired works"—and stated that, "he could never bring himself to support any measure which goes further than to give the authors the *minimum* of inducement to produce their works; and he did not think the Legislature is, in conscience, at liberty to go further,"* the feeling suggested to his opponents was not merely surprise that a person so excellent in conduct, should recognise a morality so low, but repugnance to the assumption on which his conclusions are based,—that the fund pro-

* Mirror of Parliament, p. 574.

duced by the labour of the mind, is the property of every one but the producer, and that he is only to be regarded as a pensioner upon it. Thus, when Sir Edward Sugden expressed his readiness to allow to an author some small term, absolute after his death, "sufficient for his family to send forth such an edition of his works as may procure a provision for themselves,"* he seemed to those who differ from him in principle, to be offering, by way of pitiful charity to the benefactors of mankind, a small portion of what they had created, and to regard their children as suitors for the bounty of those whom they had lived, and perhaps died, to enrich. On the other hand, when the advocates for Copyright Extension advert to the injustice of rendering the premature death of a great author, like Sir Walter Scott, a signal for the seizure of his works by competing publishers, its opponents are astonished that they should select for an example a man who has received immense sums of money for his works—as if he had been rewarded by a grant of public

* Mirror of Parliament, p. 4552.

money; and Mr. Tegg, having made £200,000 by selling books, is amazed that the admirers of Sir Walter Scott murmur, when they must admit that he has obtained as much for creating them!

The proposition which lies at the root of the objection to the Bill, is thus boldly and fairly stated by Mr. Strutt:*—"I think, that from the moment an author puts his thoughts upon paper, and delivers them to the world, his property therein utterly ceases." On the other hand, Mr. O'Connell says:—"If there is any property solely and exclusively confined to one individual, it is literary property; for in the making or procuring of every other description of property, the assistance of others is requisite;—why not, then, apply the principle of fixity in one case as well as in the other?" † The same principle is thus eloquently illustrated by Mr. D'Israeli:‡—"There are works requiring great learning, great industry, great labour, and great capital, in their preparation. They assume a palpable form. You may fill warehouses with them, and freight ships,

* Mirror of Parliament, p. 3880. † Id. 572. ‡ Id. 3529.

and the tenure by which they are held is, in my opinion, superior to that of all other property, for it is original. It is tenure which does not exist in a doubtful title; which does not spring from any adventitious circumstances;—it is not found —it is not purchased—it is not prescriptive—it is original;—so it is the most natural of all titles, because it is the most simple and least artificial. It is paramount and sovereign, because it is a tenure by creation. The fault, therefore, that I find, not with the design of the Bill, but with the Bill itself, is that the title held by such a paramount tenure should for a moment be compromised." Let us examine, for a moment, whether the proposition of Mr. Strutt, or that of Mr. D'Israeli, is true. If the first is true, the merits of the Bill are not disposed of, because the question will yet remain, whether the present term is sufficient for the best interests of the public; but if the last is true, the argument is at an end;—because any invasion of perpetual copyright will be a confiscation of property, which no pretext of public good can render just.

It is admitted by our opponents that an author's work remains his own property so long as it exists only in manuscript, and is retained in his own possession. We have not much to be grateful for in this concession; because as the uncontrollable power remains in the author, the public has no means of enforcing any claims upon the fruits of his industry. Without fear of the most tyrannical law, or the most absolute monarch, the intellectual magician may, like Prospero,

> "Break his staff,—
> "And deeper than did ever plummet sound
> "May drown his book."

But he is ready to admit his contemporaries and posterity to a participation in the results of his labours; and, having the power, and with it the right, of withholding all, he seeks to make one reservation from the grant of that which is wholly his own. In selling each copy of his work, he claims to stipulate with the purchaser, that he shall not use it to multiply copies for his own pecuniary gain;—*and the power of annexing*

this condition to every delivery of the book to a buyer, constitutes copyright. What principle is there which forbids an author, in parting with what he may entirely retain, to make such a reservation to him and his heirs and assigns for ever? He is exactly in the position of a proprietor of land, who should convey it to some public use, but should reserve to himself and his successors the timber on its surface, or the mines beneath it; and, when the Legislature denies to him perpetual copyright, it acts with as much generosity and reason as if it denied to such a proprietor his reserved right after a certain term of years, on the ground that it is for the public benefit to have wood and minerals without paying for them. Suppose the art of printing had not been invented, and the manuscript copies of a work were multiplied by writing, can it be contended that the author might not specially contract with the purchaser or the donee of every transcript, that he should not thence make other copies *for sale*? How is the author's right varied by his being able in these times, at the price of a

printer's labour and skill, with greater ease, to multiply the copies of his work for his own pecuniary benefit, and for the instruction and delight of the world? Has the printer, after the payment of his charge, any further claim on the author who has employed him? Or is the relation of the author to society in the least varied by his sharing the common right to avail himself of a mechanical invention, for the benefit of which he pays? It has been suggested, that the extension of copyright would interfere with what is called "the Liberty of the Press;" but, rightly considered, there can be no greater or more unjust restriction on that liberty than a denial of copyright to authors. For when our opponents admit that an author is absolute owner of his work in manuscript, but assert that he loses all property in it when he prints and publishes it, do they not impose the most grievous restriction on the right of printing? Do they not say to an author, You shall not avail yourself of this mechanical invention, except on condition that you give up, without reserve, all right in that which is now your

own? Do they not tell him, You shall not unbosom your thoughts for the delight and instruction of all who will pay a small sum for the book which contains them, unless you, at the same time, give to every one who chooses to trade in these thoughts, the right to reprint them for his own pecuniary gain? Strange interpretation of the "liberty of the press,"—which bestows it freely on all except those without whose labours the press would stand still—and denies it to them unless, while endowing mankind with the wisdom and the beauty they have developed, they also endow every Tegg of every age with their substantial rewards!

If the proposition stated by Mr. Strutt, and implied in every argument against the Bill—that an author, by publishing a work, resigns all property in it to the public—is true, it involves not only the absence of all right to protection of the work as the subject of pecuniary gain, but all right to protection from the debasement of polluting intermixture or impertinent mutilation. As the law now stands, the protection of an author's

gains and of his fame are co-extensive,—they live and they cease together;—and if he has no right to the one, he has no claim to the other. Has the public gained by the liberty which Tate and Cibber and Garrick have used to subject the tragedies of Shakspeare to their most ignoble uses? And if the continuance of copyright should, contrary to the expectation of its advocates, tend to keep up the price of books, is there no compensation to the purchaser in the purity of the text, or the integrity of the work? Or, if an author be desirous of recalling some rash speculation; of filling up some hasty sketch; of retouching and perfecting his conceptions, shall he be denied this opportunity, for the benefit of some bookseller who may, for the sake of a few pounds, insist on republishing the crudity, and on perpetuating the error? Is there such magic power in the press, that words once committed to it, are press-men's words for ever;—that if an author should recollect "some line which, dying, he could wish to blot," he shall not be allowed, dying, to blot it, but compelled to feel that his death will be a sig-

nal for the revival of that which he could suppress while living? Surely this consideration—one too often felt—may well be set off against the idle fear lest, if copyright should be continued for many years beyond the author's death, it may become the property of persons so perversely-minded as to decline the profit of publication, and obstinately withhold the good and the true from mankind—a possibility guarded against by the Bill—but almost too remote to be worthy of legislative precaution.

If, based on opposing propositions, the arguments of each side of the copyright question in the House of Commons remain nearly as they were, two assumptions of the opponents of the measure have been disproved by the petitions which were presented last session in its favour. These assumptions were, *first*, that authors almost always absolutely assign their copyrights, so that, unless they could obtain a larger price for an extended term, they would derive no benefit from the Bill; and *second*, that they are generally indifferent to its success. It now appears, from the statements of

the most eminent living authors, that they are the proprietors of the copyrights of their principal writings,—some being published wholly on their own account, while others have made arrangements with publishers only for a short term, or for a specific edition. If the fact had been otherwise, it would not follow that, if the term shall be extended, authors will not seek to reserve for themselves that distant reversion which their own sanguine wishes may well lead them to hope for, but which the publisher, looking for a speedy return of his outlay, would regard as worthless. To meet, however, the argument, that needy or imprudent authors may rashly assign their entire interest for a consideration which may prove inadequate to the success of their work, and that, in such cases, the protracted term would only benefit the speculator, some of the ablest advocates of the Bill have proposed to restrict the power of assigning to the limits of the present term. Such was my own original intention; and I confess that if I saw reason to hope for the adoption of the Bill with such a clause, I would gladly support it. But

I have found the objections raised to such an anomaly in a law respecting property so strong, that I have been compelled to choose between the possibility of obtaining a security by which authors might be protected against their own improvidence, in dealing with their property, and the danger of failing to obtain that property for them to enjoy. The authors whose works are most likely to endure beyond the present term of copyright, are the least likely to need the interference of law to restrain them in the exercise of their rights, as the highest genius is naturally associated with the best wisdom. But, surely, it is no reason for withholding property from its owner, that he may recklessly sell, or lavishly waste it!

The second assumption, of the indifference of authors to the question, has been even more strikingly refuted than the first; by the lists of the petitioners, embracing a very large portion of distinguished authors, in every department of literature, resident in England, and even a larger proportion of the eminent writers of Scotland.

To these I am permitted to add the name of a lady whose fame is the pride of Ireland,—Miss Edgeworth,—who, although prevented, by accident, from signing a petition, and although, having assigned most of her copyrights, she has scarcely any personal interest in the fate of the Bill, has expressed her earnest wishes for its success, as tending to promote the honour of the literature she has enriched. Among authors who have not appeared as advocates of the Bill, some, I believe, have been withheld, not by dissent from its principle, but by regret that it does not carry that principle to its full and just result, the restitution of that perpetual property which the common law of England recognised in its justice. I agree with them in regretting that it is, as I have always regarded it, "an ignoble compromise;" but having offered that compromise, I do not feel justified in withdrawing it; and I am consoled by the assurance of Sir Edward Sugden, that there is scarcely any difference between the value of a perpetuity and the duration which it contemplates.

I cannot close these remarks without adding the expression of my gratitude to those distinguished persons who have shared, with me, the charge of this Bill;—to Lord Monteagle, who, amongst the anxieties and labours of an arduous office, brought unwearied energy to its defence; to Lord Mahon, distinguished no less for literary exertions of the most honourable kind than for parliamentary eloquence; and to Sir Robert Inglis, whose venerated name, alone, would dignify the cause. Although one of these has been removed from the sphere in which his powerful assistance has hitherto been rendered, the others remain, devoted to the endeavour to obtain justice for Literature; and, under their auspices, I cannot regard its ultimate success as doubtful.

SPEECH

DELIVERED

In the House of Commons,

THURSDAY, 18th MAY, 1837,

ON THE MOTION FOR LEAVE TO BRING IN

A BILL TO AMEND THE LAW OF COPYRIGHT

SPEECH,

&c. &c.

MR. SPEAKER,

IN venturing to invite the attention of the house to the state of the law affecting the property of men of letters in the results of their genius and industry, I feel that it is my duty to present their case as concisely as its nature will permit. While I believe that their claims to some share in the consideration of the Legislature will not be denied, I am aware that they appeal to feelings far different from those which are usually excited by the intellectual conflicts of this place; that the interest of their claim is not of that stirring kind which belongs to the busy Present, but reflects back on the Past, of which the passions are

now silent, and stretches forward with speculation into the visionary Future; and that the circumstances which impede their efforts and frustrate their reward, are best appreciated in the calmness of thought to which those efforts are akin. I shall therefore intrude as briefly as I can on the patience of the house, while I glance at the history of the evils of which they complain; suggest the principles on which I think them entitled to redress; and state the outline of the remedies by which I propose to relieve them.

It is, indeed, time that literature should experience some of the blessings of legislation; for hitherto, with the exception of the noble boon conferred on the acted drama by the bill of my honourable friend the member for Lincoln, it has received scarcely anything but evil. If we should now simply repeal all the statutes which have been passed under the guise of encouraging learning, and leave it to be protected only by the principles of the common law, and the remedies which the common law could supply, I believe the relief would be welcome. It did not occur to our ancestors, that the right of deriving solid benefits from that which springs solely from within us—the

right of property in that which the mind itself creates, and which, so far from exhausting the materials common to all men, or limiting their resources, enriches and expands them—a right of property which, by the happy peculiarity of its nature, can only be enjoyed by the proprietor in proportion as it blesses mankind—should be exempted from the protection which is extended to the ancient appropriation of the soil, and the rewards of commercial enterprise. By the Common Law of England, as solemnly expounded by a majority of seven to four of the judges in the case of "Donaldson *v.* Beckett," and as sustained by the additional opinion of Lord Mansfield, the author of an original work had FOR EVER the sole right of multiplying copies, and a remedy by action, incident to every right, against any who should infringe it. The jurisdiction of the Star Chamber, while it restrained the freedom of the press, at the same time incidentally preserved the copyright from violation; and this was one of the pleas urged for the power of licensing; for Milton, in his immortal pleading for unlicensed printing, states, as one of the glosses of his opponents, "the just retaining by each man of his

several copy, which God forbid should be gainsaid." In the special verdict in "Miller *v.* Taylor" (1769), it was found as a fact, "that before the reign of Queen Anne, it was usual to purchase from authors the perpetual copyright of their books, and to assign the same from hand to hand for valuable considerations, and to make them the subject of family settlements." In truth, the claim of the author to perpetual copyright was never disputed, until literature had received a fatal present in the first act of Parliament "For its encouragement"—the 8th Anne, c. 19, passed in 1709; in which the mischief lurked, unsuspected, for many years before it was called into action to limit the rights it professed, and was probably intended, to secure. By that act, the sole right of printing and reprinting their works was recognized in authors for the term of fourteen years, and, if they should be living at its close, for another period of the same duration,—and piracy was made punishable during those periods by the forfeiture of the books illegally published, and of a penny for every sheet in the offender's custody—one-half to the use of the Queen's Majesty—the other halfpenny, not to the

poor author, whose poverty the sum might seem to befit, but to the informer; and the condition of enjoying these summary remedies, was the entry of the work at Stationers' Hall. This act, "For the encouragement of learning," which, like the priest in the fable, while it vouchsafes the blessing denies the farthing, also confers a power on the Archbishop of Canterbury and other great functionaries to regulate the prices of books, which was rejected by the Lords, restored on conference with the Commons, and repealed in the following reign; and also confers on learning the benefit of a forced contribution of nine copies of every work, on the best paper, for the use of certain libraries. Except in this last particular, the act seems to have remained a dead letter down to the year 1760, no one, as far as I can trace, having thought it worth while to sue for its halfpennies, and no one having suggested that its effect had been silently to restrict the common-law right of authors to the term during which its remedies were to operate. So far was this construction from being suspected, that in this interval of fifty years the Court of Chancery repeatedly interfered by injunction to

restrain the piracy of books in which the statutable copyright had long expired. This protection was extended in 1735 to "The Whole Duty of Man," the first assignment of which had been made seventy-eight years before; in the same year to the "Miscellanies of Pope and Swift;" in 1736 to "Nelson's Festivals and Fasts;" in 1739 to the "Paradise Lost;" and in 1752 to the same poem, with a life of the author, and the notes of all preceding editions. Some doubts having at length arisen, the question of the operation of the statute was in 1760 raised by a sort of amicable suit, "Tonson *v.* Collins," respecting the "Spectator," in which the Court of Common Pleas inclined to the plaintiff, but before giving judgment discovered that the proceeding was collusive, and refused to pronounce any decision. In 1766 an action was brought, "Miller *v.* Taylor," for pirating "Thomson's Seasons," in the Court of King's Bench, before whom it was elaborately argued, and which in 1769 gave judgment in favour of the subsisting copyright; Lord Mansfield, Mr. Justice Willes, and Mr. Justice Aston, holding that copyright was perpetual by the common law, and not limited by the statute, except

as to penalties, and Mr. Justice Yates dissenting from them. In 1774 the question was brought before the House of Lords, when eleven judges delivered their opinions upon it—six of whom thought the copyright limited, while five held it perpetual; and Lord Mansfield, who would have made the numbers equal, retaining his opinion, but expressing none. By this bare majority—against the strong opinion of the Chief Justice of England—was it decided that the statute of Anne has substituted a short term in copyright for an estate in fee, and the rights of authors were delivered up to the mercy of succeeding Parliaments!

Until this decision, the copyright vested in the universities had only shared the protection which it was supposed had existed for all, and in fact their copyright was gone. But they immediately resorted to the Legislature and obtained an act, 15 George III., c. 63, "For enabling the two universities in England, the four universities of Scotland, and the several colleges of Eton, Westminster, and Winchester, to hold in perpetuity the copyright in books given or bequeathed to them for the advancement of learning

and the purposes of education;" and the like privilege was, by 41 George III., c. 107, extended to Trinity College, Dublin. With the immunities thus conferred on the universities, or rather with this exemption from the wrong incidentally inflicted on individuals, I have no intention to interfere; neither do I seek to relieve literature from the obligation, recently lightened by the just consideration of Parliament, of supplying the principal universities with copies of all works at the author's charge. I only seek to apply the terms of the statute, which recites that the purposes of those who bequeathed copyright to the universities for the advancement of learning would be frustrated unless the exclusive right of printing and reprinting such books be secured in perpetuity, to support the claim of individuals to some extended interest in their own. I only ask that some of the benefits enjoyed by the venerable nurseries of learning and of genius should attend the works of those whose youth they have inspired and fostered, and of those also who, although fortune has denied to them that inestimable blessing, look with reverence upon the great institutions of their country, and feel themselves in that

reverence not wholly strangers to the great body of associations they nourish.

The next act, 41st George III., c. 107, passed immediately after the Union, did little besides including Ireland in the general law of copyright; conferring on Trinity College, Dublin, the privilege of English Universities; prohibiting the importation of books from abroad which had been originally printed in the United Kingdom; and increasing the penalty on piracies from 1d. to 3d. per sheet. But in the year 1814, by the statute 54 George III., c. 156, which is the principal subsisting act on the subject of literary copyright, reciting "That it would afford further encouragement to literature, if the duration of copyright were further extended," enlarges it to the absolute term of twenty-eight years; and if the author shall survive that time, secures it to him for the remainder of his life. Since then the Legislature has extended its protection to two classes of composition which before were left in a condition to invite piracy—to the acted drama, by the measure of 3 William IV., c. 15, and to lectures, by 5 and 6 William IV., c. 65—and has, by an act of last session,

lightened the load of one of the blessings conferred by the Legislature, by reducing the copies which authors are privileged to render to five; but the term of twenty-eight years, with the possible reversion beyond that time for life, is all authors have yet obtained in return for that inheritance of which the statute of Anne incidentally deprived them.

This limitation of the ancient rights of authorship has not been compensated by uniformity in the details of the law, by simplicity in the modes of proving the right or of transferring it, or by the cheapness or adequacy of the remedies. The penal clauses have proved wholly worthless. Engravings, etchings, maps, and charts, which are regulated by other statutes, are secured to the author for twenty-eight years, but not, like books, for the contingent term of life. Instead of the registration at Stationers'-hall, which has been holden not necessary to the right of action, the work must bear the date and the name of the proprietor; but no provision is made in either case for cheap transfer. Now, I propose to render the law of copyright uniform, as to all books and works of art; to secure to the proprietor the same term in each; to

give one plan of registration and one mode of transfer. As the Stationers' Company have long enjoyed the control over the registration of books, I do not propose to take it from them, if they are willing to retain it with the increased trouble, compensated by the increased fees which their officer will be entitled to receive. I propose that, before any proceeding can be adopted for the violation of copyright, the author, or his assignee, shall deposit a copy of the work, whether book or engraving, and cause an entry to be made in the form to be given in the act of the proprietorship of the work, whether absolute or limited; and that a copy of such entry, signed by the officer, shall be admitted in all courts as *primâ facie* evidence of the property. I propose that any transfer should be registered in like manner in a form also to be given by the act; that such transfer shall be proved by a similar copy; and that in neither case shall any stamp be requisite.

At present, great uncertainty prevails as to the original right of property in papers supplied to periodical works, or written at the instance of a bookseller, and as to the right of engraving from original pictures.

However desirable it may be that these questions should be settled, it is impossible to interfere with the existing relations of booksellers and authors, or of patrons of art and artists. Neither, for the future, do I propose to lay down any rule as to the rights which shall originally be expressed or implied between the parties themselves; but that the right of copy shall be registered as to such books, pictures, or engravings, only with the consent of both expressed in writing, and when this is done shall be absolute in the party registered as owner. At present, an engraver or publisher, who has given a large sum for permission to engrave a picture, and expended his money or labour in the plate, may be met by unexpected competition, for which he has no remedy. By making the registration not the condition of the right itself, but of the remedy by action or otherwise, the independence of contracting parties will be preserved, and this evil avoided for the future. A competent tribunal will still be wanting; its establishment is beyond the scope of my intention or my power; but I feel that complete justice will not be done to Literature and Art until a mode shall be

devised for a cheap and summary vindication of their injuries before some parties better qualified to determine it than judges who have passed their lives in the laborious study of the law, or jurors who are surrounded with the cares of business, and, except by accident, little acquainted with the subjects presented to them for decision.

But the main object of the bill which I contemplate is—I will not use those words of ill omen, "the further advancement of learning," but—for additional justice to learning, by the further extension of time during which authors shall enjoy the direct pecuniary benefit immediately flowing from the sale of their own works.

Although I see no reason why authors should not be restored to that inheritance which, under the name of protection and encouragement, has been taken from them, I feel that the subject has so long been treated as matter of compromise between those who deny that the creations of the inventive faculty, or the achievements of the reason, are the subjects of property at all, and those who think the property should last as long as the works which contain truth

and beauty live, that I propose still to treat it on the principle of compromise, and to rest satisfied with a fairer adjustment of the difference than the last Act of Parliament affords. I shall propose—subject to modification when the details of the measure shall be discussed—that the term of property in all works of learning, genius, and art, to be produced hereafter, or in which the statutable copyright now subsists, shall be extended to sixty years, to be computed from the death of the author; which will at least enable him, while providing for the instruction and the delight of distant ages, to contemplate that he shall leave in his works themselves some legacy to those for whom a nearer, if not a higher duty, requires him to provide, and which shall make "death less terrible." When the opponents of literary property speak of glory as the reward of genius, they make an ungenerous use of the very nobleness of its impulses, and show how little they have profited by its high example. When Milton, in poverty and in blindness, fed the flame of his divine enthusiasm by the assurance of a duration coequal with his language, I believe with Lord Camden that no thought crossed him of the wealth which

might be amassed by the sale of his poem; but surely some shadow would have been cast upon "the clear dream and solemn vision" of his future glories, had he foreseen that, while booksellers were striving to rival each other in the magnificence of their editions, or their adaptation to the convenience of various classes of his admirers, his only surviving descendant —a woman—should be rescued from abject want only by the charity of Garrick, who, at the solicitation of Dr. Johnson, gave her a benefit at the theatre which had appropriated to itself all that could be represented of Comus. The liberality of genius is surely ill urged as an excuse for our ungrateful denial of its rights. The late Mr. Coleridge gave an example not merely of its liberality, but of its profuseness; while he sought not even to appropriate to his fame the vast intellectual treasures which he had derived from boundless research, and coloured by a glorious imagination; while he scattered abroad the seeds of beauty and of wisdom to take root in congenial minds, and was content to witness their fruits in the productions of those who heard him. But ought we, therefore, the less to deplore, now when the music of his divine

philosophy is for ever hushed, that the earlier portion of those works on which he stamped his own impress —all which he desired of the world that it should recognise as his—is published for the gain of others than his children—that his death is illustrated by the forfeiture of their birthright? What justice is there in this? Do we reward our heroes thus? Did we tell our Marlboroughs, our Nelsons, our Wellingtons, that glory was their reward, that they fought for posterity, and that posterity would pay them? We leave them to no such cold and uncertain requital; we do not even leave them merely to enjoy the spoils of their victories, which we deny to the author; we concentrate a nation's honest feeling of gratitude and pride into the form of an endowment, and teach other ages what we thought, and what they ought to think, of their deeds, by the substantial memorials of our praise. Were our Shakspeare and Milton less the ornaments of their country, less the benefactors of mankind? Would the example be less inspiring if we permitted them to enjoy the spoils of their peaceful victories—if we allowed to their descendants, not the tax assessed by present gratitude, and charged on

the Future, but the mere amount which that Future would be delighted to pay—extending as the circle of their glory expands, and rendered only by those who individually reap the benefits, and are contented at once to enjoy and to reward its author?

But I do not press these considerations to the full extent; the Past is beyond our power, and I only ask for the present a brief reversion in the Future. "Riches fineless" created by the mighty dead are already ours. It is in truth the greatness of the blessings which the world inherits from genius that dazzles the mind on this question; and the habit of repaying its bounty by words, that confuses us and indisposes us to justice. It is because the spoils of time are freely and irrevocably ours—because the forms of antique beauty wear for us the bloom of an imperishable youth—because the elder literature of our own country is a free mine of wealth to the bookseller and of delight to ourselves, that we are unable to understand the claim of our contemporaries to a beneficial interest in their works. Because genius by a genial necessity communicates so much, we cannot conceive it as retaining anything for its possessor. There is a sense, indeed, in which the poets

"on earth have made us heirs of truth and pure delight in heavenly lays;" and it is because of the greatness of this very boon—because their thoughts become our thoughts, and their phrases unconsciously enrich our daily language—because their works, harmonious by the law of their own nature, suggest to us the rules of composition by which their imitators should be guided—because to them we can resort, and "in our golden urns draw light," that we cannot fancy them apart from ourselves, or admit that they have any property except in our praise. And our gratitude is shown not only in leaving their descendants without portion in the pecuniary benefits derived from their works, but in permitting their fame to be frittered away in abridgments, and polluted by base intermixtures, and denying to their children even the cold privilege of watching over and protecting it!

There is something, Sir, peculiarly unjust in bounding the term of an author's property by his natural life, if he should survive so short a period as twenty-eight years. It denies to age and experience the probable reward it permits to youth—to youth, sufficiently full of hope and joy, to slight its promises.

It gives a bounty to haste, and informs the laborious student, who would wear away his strength to complete some work which "the world will not willingly let die," that the more of his life he devotes to its perfection, the more limited shall be his interest in its fruits. It stops the progress of remuneration at the moment it is most needed, and when the benignity of Nature would extract from her last calamity a means of support and comfort to survivors. At the season when the author's name is invested with the solemn interest of mortality—when his eccentricities or frailties excite a smile or a sneer no longer—when the last seal is set upon his earthly course, and his works assume their place among the classics of his country, your law declares that his works shall become your property, and you requite him by seizing the patrimony of his children. We blame the errors and excesses of genius, and we leave them—justly leave them—for the most part, to the consequences of their strangely-blended nature. But if genius, in assertion of its diviner alliances, produces large returns when the earthly course of its frail possessor is past, why is the public to insult his descendants with their alms

and their pity? What right have we to moralise over the excesses of a Burns, and insult his memory by charitable honours, while we are taking the benefit of his premature death, in the expiration of his copyright and the vaunted cheapness of his works? Or, to advert to a case in which the highest intellectual powers were associated with the noblest moral excellence, what right have we to take credit to ourselves for a paltry and ineffectual subscription to rescue Abbotsford for the family of its great author (Abbotsford, his romance in stone and mortar, but not more individually *his* than those hundred fabrics, not made with hands, which he has raised, and peopled for the delight of mankind), while we insist on appropriating now the profits of his earlier poems, and anticipate the time when, in a few years, his novels will be ours without rent-charge to enjoy—and any one's to copy, to emasculate, and to garble? This is the case of one whom kings and people delighted to honour. But look on another picture—that of a man of genius and integrity, who has received all the insult and injury from his contemporaries, and obtains nothing from posterity but a name. Look at Daniel De Foe;

recollect him pilloried, bankrupt, wearing away his life to pay his creditors in full, and dying in the struggle!—and his works live, imitated, corrupted, yet casting off the stains, not by protection of law, but by their own pure essence. Had every schoolboy, whose young imagination has been prompted by his great work, and whose heart has learned to throb in the strange yet familiar solitude he created, given even the halfpenny of the statute of Anne, there would have been no want of a provision for his children, no need of a subscription for a statue to his memory!

The term allowed by the existing law is curiously adapted to encourage the lightest works, and to leave the noblest unprotected. Its little span is ample for authors who seek only to amuse; who, "to beguile the time, look like the time;" who lend to frivolity or corruption "lighter wings to fly;" who sparkle, blaze, and expire. These may delight for a season—glisten as the fire-flies on the heaving sea of public opinion—the airy proofs of the intellectual activity of the age;—yet surely it is not just to legislate for those alone, and deny all reward to that

Literature which aspires to endure. Let us suppose an author, of true original genius, disgusted with the inane phraseology which had usurped the place of poetry, and devoting himself from youth to its service; disdaining the gauds which attract the careless, and unskilled in the moving accidents of fortune —not seeking his triumph in the tempest of the passions, but in the serenity which lies above them,—whose works shall be scoffed at—whose name made a by-word—and yet who shall persevere in his high and holy course, gradually impressing thoughtful minds with the sense of truth made visible in the severest forms of beauty, until he shall create the taste by which he shall be appreciated—influence, one after another, the master-spirits of his age—be felt pervading every part of the national literature, softening, raising, and enriching it; and when at last he shall find his confidence in his own aspirations justified, and the name which once was the scorn admitted to be the glory of his age—he shall look forward to the close of his earthly career, as the event that shall consecrate his fame and deprive his children of the opening harvest he is beginning to reap. As

soon as his copyright becomes valuable, it is gone! This is no imaginary case—I refer to one who "in this setting part of Time" has opened a vein of the deepest sentiment and thought before unknown — who has supplied the noblest antidote to the freezing effects of the scientific spirit of the age—who, while he has detected that poetry which is the essence of the greatest things, has cast a glory around the lowliest conditions of humanity, and traced out the subtle links by which they are connected with the highest—of one whose name will now find an echo, not only in the heart of the secluded student, but in that of the busiest of those who are fevered by political controversy—of William Wordsworth. Ought we not to requite such a poet, while yet we may, for the injustice of our boyhood? For those works which are now insensibly quoted by our most popular writers, the spirit of which now mingles with our intellectual atmosphere, he probably has not received through the long life he has devoted to his art, until lately, as much as the same labour, with moderate talent, might justly produce in a single year. Shall the law, whose term has been amply sufficient to his

scorners, now afford him no protection, because he has outlasted their scoffs—because his fame has been fostered amidst the storms, and is now the growth of years?

There is only one other consideration to which I will advert, as connected with this subject, — the expedience and justice of acknowledging the rights of foreigners to copyright in this country, and of claiming it from them for ourselves in return. If at this time it were clear that our law afforded no protection to foreigners, first publishing in other countries, there would be great difficulty in dealing with this question for ourselves, and we might feel bound to leave it to negotiation to give and to obtain reciprocal benefits. But if a recent decision on the subject of musical copyright is to be regarded as correct, the principle of international copyright is already acknowledged here, and there is little for us to do in order that we may be enabled to claim its recognition from foreign states. It has been decided by a judge conversant with the business and with the elegancies of life to a degree unusual with an eminent lawyer,—by one who was the most successful advocate of his time, yet who was

not more remarkable for his skill in dealing with facts than for the grace with which he embellished them—by Lord Abinger,—that the assignee of foreign copyright, deriving title from the author abroad to publish in this country, and creating that right within a reasonable time, may claim the protection of our courts against any infringement of his copy *. If this is law—and I believe and trust it is—we shall make no sacrifice in so declaring it, and in setting an example which France, Prussia, America, and Germany, are prepared to follow. Let us do justice to our law and to ourselves. At present, not only is the literary intercourse of countries, who should form one great family, degraded into a low series of mutual piracies—not only are industry and talent deprived of their just reward, but our Literature is debased in the eyes of the world, by the wretched medium through which they behold it. Pilfered, and disfigured in the pilfering, the noblest images are broken, wit falls pointless, and verse is only felt in fragments of broken music;—sad fate for an irritable race! The great

* D'Almaine and another *v.* Bossey, 1 Younge and Collyer's Reports, 288.

minds of our time have now an audience to impress far vaster than it entered into the minds of their predecessors to hope for; an audience increasing as population thickens in the cities of America, and spreads itself out through its diminishing wilds, who speak our language, and who look on our old poets as their own immortal ancestry. And if this our Literature shall be theirs; if its diffusion shall follow the efforts of the stout heart and sturdy arm in their triumph over the obstacles of nature; if the woods stretching beyond their confines shall be haunted with visions of beauty which our poets have created; let those who thus are softening the ruggedness of young society have some present interest about which affection may gather, and at least let them be protected from those who would exhibit them mangled or corrupted to their transatlantic disciples. I do not in truth ask for Literature favour; I do not ask for it charity; I do not even appeal to gratitude in its behalf; but I ask for it a portion, and but a portion, of that common justice which the coarsest industry obtains for its natural reward, and which nothing but the very extent of its claims, and the nobleness

of the associations to which they are akin, have prevented it from receiving from our laws.

Sir, I will trespass no longer on the patience of the house, for which I am most grateful, but move that leave be given to bring in a bill "to consolidate and amend the laws relating to property in the nature of copyright in books, musical compositions, acted dramas, pictures, and engravings,—to provide remedies for the violation thereof, and to extend the term of its duration."

THE motion, seconded by the Chancellor of the Exchequer and supported by Sir Robert Harry Inglis, was carried without opposition;—and the bill was ordered to be brought in by Sir Robert Harry Inglis, Lord Mahon, and the Chancellor of the Exchequer, in conjunction with the mover. The bill which under these auspices was introduced, contained, according to the proposition, clauses for the protection of the arts of painting and engraving, and provided for the recognition and security of copyright in the works of foreign authors, on certain conditions. Its second reading was carried without debate or division; and it stood for committal when the death of the King precluded the further progress of all measures except those of urgency, and in a few weeks produced the dissolution of parliament. On the 14th December, 1838, the motion for leave to introduce the bill was renewed—with the difference that it had been found expedient to confine the measure to Literature, and to defer until a suitable opportunity the introduction of a separate measure for consolidating and amending the laws affecting the arts of painting, engraving, and also that of sculpture, which had not been included in the original measure. This separa-

tion of the objects of the bill received the approbation of Lord Mahon, who had previously concurred in its necessity, and of Sir Robert Peel, who suggested the expedience of appointing a select committee to report on the state of the law relating to the fine arts, before proceeding to the arduous but most needful work of legislating for their protection, and securing their reward. On this occasion, also, that part of the original measure which related to international copyright was, at the request of Mr. Poulett Thomson, resigned into the hands of Ministers, under whose auspices a bill has since passed, enabling them to negotiate on this important subject with foreign powers. After expressions of approval from Sir Edward Lytton Bulwer and Mr. D'Israeli, leave was given to bring in the bill. The circumstances and character of the opposition which had, in the interval, been raised against it, sufficiently appear from the following speech on the motion that it be read a second time.

SPEECH

DELIVERED

In the House of Commons,

WEDNESDAY, 25th APRIL, 1838,

ON THE MOTION FOR THE SECOND READING OF

THE BILL TO AMEND THE LAW OF COPYRIGHT.

SPEECH,

&c. &c.

MR. SPEAKER,

WHEN I had the honour last year to move the second reading of a bill essentially similar to the present, I found it unnecessary to trouble the house with a single remark; for scarcely a trace then appeared of the opposition which has since gathered around it. I do not, however, regret that the measure was not carried through the Legislature by the current of feeling which then prevailed in its favour, but that opportunity has been afforded for the full discussion of the claims on which it is founded, and of the consequences to individuals and to the public that may be expected from its operation. Believing,

as I do, that the interests of those who, by intellectual power, laboriously and virtuously exerted, contribute to the delight and instruction of mankind—of those engaged in the mechanical processes by which those labours are made effectual—and of the people who at once enjoy and reward them, are essentially one; believing that it is impossible at the same time to enhance the reward of authors, and to injure those who derive their means of subsistence from them—and desiring only that this bill shall succeed if it shall be found, on the fullest discussion, that it will serve the cause of intellect in its noblest and most expanded sense; I rejoice that all classes who are interested in reality or in belief in the proposed change have had the means of presenting their statements and their reasonings to the consideration of Parliament, and of urging them with all the zeal which an apprehension of pecuniary loss can inspire. I do not, indeed, disguise that the main and direct object of the bill is to insure to authors of the highest and most enduring merit a larger share in the fruits of their own industry and genius than our law now accords to them; and whatever fate may attend the

endeavour, I feel with satisfaction that it is the first which has been made substantially for the benefit of authors, and sustained by no interest except that which the appeal on their behalf to the gratitude of those whose minds they have enriched, and whose lives they have gladdened, has enkindled. The statutes of Anne and of George III., especially the last, were measures suggested and maintained by publishers; and it must be consoling to the silent toilers after fame, who in this country have no ascertained rank, no civil distinction, in their hours of weariness and anxiety to feel that their claim to consideration has been cheerfully recognised by Parliament, and that their cause, however feebly presented, has been regarded with respect and with sympathy.

In order that I may trespass as briefly as I can on the indulgence with which this subject has been treated, I will attempt to narrow the controversy of to-night by stating at once what I regard to be the principle of this bill, and call on honourable members now to affirm—and what I regard as matters of mere detail, which it is unnecessary at this moment to consider. That principle is, that the present term

of copyright is much too short for the attainment of that justice which society owes to authors, especially to those (few though they be) whose reputation is of slow growth and of enduring character. Whether that term shall be extended from its present length to sixty years, or to some intermediate period—whether it shall commence at the death of the author or at the date of first publication—in what manner it shall be reckoned in the cases of works given to the world in portions—are questions of detail on which I do not think the house are to-night required to decide. On the one hand, I do not ask honourable members to vote for the second reading of this bill merely because they think there are some uncertainties in the law of copyright which it is desirable to remove, or some minor defects which they are prepared to remedy. On the other hand, I entreat them not to reject it on account of any objections to its mere details; but as they may think the legalised property of authors sufficiently prolonged and secured, or requiring a substantial extension, to oppose or to support it.

In maintaining the claim of authors to this exten-

sion, I will not intrude on the time of the house with any discussion on the question of law—whether perpetual copyright had existence by our common law; or of the philosophical question, whether the claim to this extent is founded in natural justice. On the first point, it is sufficient for me to repeat, what cannot be contradicted, that the existence of the legal right was recognised by a large majority of the judges, with Lord Mansfield at their head, after solemn and repeated argument; and that six to five of the judges only determined that the stringent words "*and no longer*" in the statute of Anne had taken that right away. And even this I do not call in aid so much by way of legal authority, as evidence of the feeling of those men (mighty, though few,) to whom our infant Literature was confided by Providence, and of those who were in early time able to estimate the labour which we inherit. On the second point I will say nothing; unable, indeed, to understand why that which springs wholly from within, and contracts no other right by its usurpation, is to be regarded as baseless, because, by the condition of its very enjoyment, it not only enlarges

the source of happiness to readers, but becomes the means of mechanical employment to printers, and of speculation to publishers. I am content to adopt the intermediate course, and to argue the question, whether a fair medium between two extremes has been chosen. What is to be said in favour of the line now drawn, except that it exists and bears an antiquity commencing in 1814? Is there any magic in the term of twenty-eight years? Is there any conceivable principle of justice which bounds the right, if the author survives that term, by the limit of his natural life? As far as expediency shall prevail—as far as the welfare of those for whom it is the duty and the wish of the dying author to provide, may be regarded by Parliament; the period of his death is precisely that when they will most need the worldly comforts which the property in his works would confer. And, as far as analogy may govern, the very attribute which induces us to regard with pride the works of intellect is, that they survive the mortal course of those who framed them—that they are akin to what is deathless. Why should that quality render them profitless to those in whose affectionate

remembrance their author still lives, while they attest a nobler immortality? Indeed, among the opponents of this measure, it is ground of cavil that it is proposed to take the death of the author as a starting point for the period which it adds to the present term. It is urged as absurd that even the extent of this distant period should be affected by the accident of death; and yet those who thus argue are content to support the system which makes that accident the final boundary at which the living efficacy of authorship, for the advantage of its professors, ceases.

I perfectly agree with the publishers in the evidence given in 1818, and the statements which have been repeated more recently—that the extension of time will be a benefit only in one case in five hundred of works now issuing from the press; and I agree with them that we are legislating for that five hundredth case. Why not? It is the great prize which, out of the five hundred risks, genius and goodness win. It is the benefit that can only be achieved by that which has stood the test of time—of that which is essentially true and pure—of that which has sur-

vived spleen, criticism, envy, and the changing fashions of the world. Granted that only one author in five hundred attains this end; does it not invite many to attempt it, and impress on literature itself a visible mark of permanence and of dignity? The writers who attain it must belong to one of two classes. The first class consists of authors who have laboured to create the taste which should appreciate and reward them, and only attain that reputation which brings with it a pecuniary recompense when the term for which that reward is secured to them wanes. Is it unjust in this case, which is that of Wordsworth, now in the evening of life, and in the dawn of his fame, to allow the author to share in the remuneration that society tardily awards him? The other class includes those who, like Sir Walter Scott, have combined the art of ministering to immediate delight with that of outlasting successive races of imitators and apparent rivals; who do receive a large actual amount of recompense, but whose accumulating compensation is stopped when it most should increase. Now, surely, as to them, the question is not what remuneration is sufficient in the judgment of the

Legislature to repay for certain benefactions to society, but whether, having won the splendid reward, our laws shall permit the winner to enjoy it? We could not decide the abstract question between genius and money, because there exist no common properties by which they can be tested, if we were dispensing an arbitrary reward; but the question how much the author ought to receive is easily answered—so much as his readers are delighted to pay him. When we say that he has obtained immense wealth by his writings, what do we assert, but that he has multiplied the sources of enjoyment to countless readers, and lightened thousands of else sad, or weary, or dissolute hours? The two propositions are identical; the proof of the one at once establishing the other. Why, then, should we grudge it, any more than we would reckon against the soldier, not the pension or the grant, but the very prize-money which attests the splendour of his victories, and in the amount of his gains proves the extent of ours? Complaints have been made by one in the foremost rank in the opposition to this bill, the pioneer of the noble army of publishers, booksellers, printers, and bookbinders,

who are arrayed against it*—that in selecting the case of Sir Walter Scott as an instance in which the

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* This allusion has been singularly misconceived by the gentleman to whom it applies—Mr. Tegg,—who thus notices it in his letter "To the Editor of the *Times*," of 20th Feb., 1839:—"The learned serjeant calls me a *pioneer of literature*, because I open my shop for the sale of books, and not for the encouragement of authors; but what is the object of my customers who buy the books? Not one in a thousand would allege that he bought a book for the encouragement of the author; they come to procure the means of amusement, information, or instruction. The learned serjeant—a liberal—a friend to literature, a promoter of education—persists in bringing forward an *ex post facto* law, to counteract the advantages of education, to check the diffusion of literature, and to abridge the innocent entertainment of the public, by enhancing the price of books. I glory in the difference of our position." It will be seen by the comparison of the text and the comment, that Mr. Tegg is mistaken in supposing I had called him "a pioneer of literature." I only called him the pioneer of the opponents of the bill;—and that he is equally mistaken in supposing that I complained that he opens his shop for the sale of books, and not for the encouragement of authors. I ask for no encouragement to authors, but that which arises from the purchase of books by those who seek in them "the means of amusement, information, and instruction;"—who voluntarily tax themselves for their own benefit:—and I venture to think

extension of copyright would be just, I had been singularly unfortunate, because that great writer received, during the period of subsisting copyright, an unprecedented revenue from the immediate sale of his works. But, sir, the question is not one of reward—it is one of justice. How would this gentleman approve of the application of a similar rule to his own honest gains? From small beginnings this very publisher has, in the fair and honourable course of trade, I doubt not, acquired a splendid fortune, amassed by the sale of works, the property of the

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that, as the gains of the publisher are just as effectually added to the price of a book as those of its author, it would be as beneficial to the public if the author of a book shared in the profit with the bookseller, even after the period to which the law now confines his interest in his own work, and when Mr. Tegg's good office in "opening his shop for its sale" sometimes commences. So far from regarding Mr. Tegg as the "pioneer of literature," I have always contemplated him in the very opposite position,—as a follower of the march, whom the law allows to collect the spoils which it denies to the soldier who has fought for them. He has abundant reason, no doubt, "to glory in the difference of his position" and mine; but he quite mistakes his own, if he think he has any relation to literature, except as the depository of its winnings.

public—of works, whose authors have gone to their repose, from the fevers, the disappointments, and the jealousies which await a life of literary toil. Who grudges it to him? Who doubts his title to retain it? And yet this gentleman's fortune is all, every farthing of it, so much taken from the public, in the sense of the publisher's argument; it is all profit on books bought by that public, the accumulation of pence, which, if he had sold his books without profit, would have remained in the pockets of the buyers. On what principle is Mr. Tegg to retain what is denied to Sir Walter? Is it the claim of superior merit? Is it greater toil? Is it larger public service? His course, I doubt not, has been that of an honest, laborious tradesman; but what have been its anxieties, compared to the stupendous labour, the sharp agonies of him, whose deadly alliance with those very trades whose members oppose me now, and whose noble resolution to combine the severest integrity with the loftiest genius, brought him to a premature grave—a grave which, by the operation of the law, extends its chillness even to the result of those labours, and despoils them of the living efficacy to

assist those whom he has left to mourn him? Let any man contemplate that heroic struggle of which the affecting record has just been completed; and turn from the sad spectacle of one who had once rejoiced in the rapid creation of a thousand characters glowing from his brain, and stamped with individuality for ever, straining the fibres of the mind till the exercise which had been delight became torture—girding himself to the mighty task of achieving his deliverance from the load which pressed upon him, and with brave endeavour, but relaxing strength, returning to the toil till his faculties give way, the pen falls from his hand on the unmarked paper, and the silent tears of half-conscious imbecility fall upon it—to some prosperous bookseller in his country house, calculating the approach of the time (too swiftly accelerated) when he should be able to publish for his own gain, those works, fatal to life,—and then tell me, if we are to apportion the reward to the effort, where is the justice of the bookseller's claim? Had Sir Walter Scott been able to see, in the distance, an extension of his own right in his own productions, his estate and his heart had been set free, and the publishers and

printers, who are our opponents now, would have been grateful to him for a continuation of labour and rewards which would have impelled and augmented their own.

These two classes comprise, of necessity, all the instances in which the proposed change would operate at all; the first, that of those whose copyright only becomes valuable just as it is about to expire; the last, that of those whose works which, at once popular and lasting, have probably, in the season of their first success, enriched the publisher far more than the author. It will not be denied that it is desirable to extend the benefit to both classes, if it can be done without injury to the public, or to subsisting individual interests. The suggested injury to the public is, that the price of books would be greatly enhanced; and on this assumption the printers and bookbinders have been induced to sustain the publishers in resisting a change which is represented as tending to paralyse speculation—to cause fewer books to be written, printed, bound, and bought—to deprive the honest workmen of their subsistence, and the people of the opportunity of enjoying the productions of

genius. Even if such consequences are to be dreaded, and justice requires the sacrifice, it ought to be made. The community have no right to be enriched at the expense of individuals, nor is the Liberty of the Press (magic words, which I have heard strangely blended in the din of this controversy) the liberty to smuggle and to steal. Still, if to these respectable petitioners, men often of intelligence and refinement beyond their sphere, which they have acquired from their mechanical association with Literature, I could think the measure fraught with such mischiefs, I should regard it with distrust and alarm. But never, surely, were the apprehensions of intelligent men so utterly baseless. In the first place, I believe that the existence of the copyright, even in that five-hundredth case, would not enhance the price of the fortunate work; for the author or the bookseller, who enjoys the monopoly, as it is called, is enabled to supply the article at a much cheaper rate when a single press is required to print all the copies offered for sale, instead of the presses and establishments of competing publishers; and I believe a comparison between the editions of standard works in

which there is copyright, with those in which there is none, would confirm the truth of the inference*. To cite, as an instance to the contrary, "Clarendon's History of the Rebellion," is to confess that a fair test would disprove the objection; for what analogy is there between the motives and the acts of a great body, having no personal stimulus or interest, except to retain what is an ornament to their own power, and those of a number of individual proprietors? But, after all, it is only in this five-hundredth case — the one rare prize in this huge lottery — that even this effect is to be dreaded. Now, this effect is the possible enhancing the price of the five-hundredth or five-thousandth book, and this is actually supposed "to be a heavy blow and great

* The case of the Scriptures seems decisive on this point, — on which the entire argument against the bill hinges. In the First of Books there is perpetual copyright; and does any one believe it would be cheaper than it is if it were the subject of competition? The truth is, that the only way in which the printer *could* suffer by the extension of copyright is by a process which would make books cheaper;—the employment of one press, instead of many, to produce the same number of copies.

discouragement to literature," enough to paralyse the energies of publishers, and to make Paternoster-row a desert! Let it only be announced, say our opponents, that an author, whose works may outlast twenty-eight years, shall bequeath to his children the right which he enjoyed, that possibly some sixpence a volume may be added to its price in such an event, and all the machinery of printing and publication will come to a pause! Why, sir, the same apprehension was entertained in 1813, when the publishers sought to obtain the extension of copyright for their own advantage to twenty-eight years. The printers then dreaded the effect of the prolonged monopoly: they petitioned against the bill, and they succeeded in delaying it for a session. And surely they had then far greater plausibility in their terrors; for in proportion as the period at which the contemplated extension begins is distant, its effects must be indistinct and feeble. Fewer books, of course, will survive twenty-eight years than fourteen; the act of 1814 operated on the greater number if at all; and has experience justified the fears which the publishers then laughed to scorn? Has the number of books diminished since

then? Has the price of books been enhanced? Has the demand for the labour of printers or book-binders slackened? Have the profits of the book-seller failed? I need no committee of inquiry to answer these questions, and they are really decisive of the issue. We all know that books have multiplied; that the quartos, in which the works of high pretension were first enshrined, have vanished; and, while the prices paid for copyrights have been far higher than in any former time, the proprietors of these copyrights have found it more profitable to publish in a cheap than in a costly form. Will authors, or the children of authors, be more obstinate—less able to appreciate and to meet the demands of the age—more apprehensive of too large a circulation—when both will be impelled by other motives than those of interest to seek the largest sale; the first by the impulse of blameless vanity or love of fame; the last by the affection and the pride with which they must regard the living thoughts of a parent taken from this world, finding their way through every variety of life, and cherished by unnumbered minds, which will bless that parent's memory?

If, sir, I were called to state in a sentence the most powerful argument against the objection raised to the extension of copyright on the part of the public, I would answer,—"The opposition of the publishers." If they have ground to complain of loss, the public can have none. The objection supposes that the works would be sold at something more than the price of the materials, the workmanship, and a fair profit on the outlay, if the copyright be continued to the author; and, of course, also supposes that works of which the copyrights have expired are sold without profit beyond those charges—that, in fact, the author's superadded gain will be the measure of the public loss. Where, then, does the publisher intervene? Is the truth this—that the usage of the publishing trade at this moment indefinitely prolongs the monopoly by a mutual understanding of its members, and that besides the term of twenty-eight years, which the publisher has bought and paid for, he has something more? Is it a conventional copyright that is in danger? Is the real question whether the author shall hereafter have the full term to dispose of, or shall sell a smaller term, and really

assign a greater? Now, either the publishers have no interest in the main question, or this is that interest. If this is that interest, how will the public lose by paying their extra sixpence to the author who created the work, instead of the gentleman who prints his name at the foot of the title-page, and who will still take his 25 per cent. on the copies he may sell? This argument applies, and, I apprehend, conclusively, to the main question—the justice and expediency of extending the term. I am aware that there is another ground of complaint more plausible, which does not apply to the main question, but to what is called the retrospective clause—a complaint, that in cases where the extended term will revert to the family of the author, instead of excluding, by virtue of an implied compact, all the rest of the world, they, like all the rest of the world, will be excluded; that they had a right to calculate on this liberty in common with others when they made this bargain; and that, therefore, it is a violation of faith to deprive them of their share of the common benefit. That there is any violation of faith I utterly deny—they still have all they have paid for; and when,

indeed, they assert (which they do when they argue that the measure will confer no benefit on authors) they would not give an author any more for a copyright of sixty than of twenty-eight years, they themselves refute the charge of breach of faith, by showing that they do not reckon such distant contingencies in the price which they pay. If any inconvenience should arise, I should rejoice to consider how it can be obviated; and with that view I introduced those clauses which have been the subject of much censure, empowering the assignee to dispose of all copies on hand at the close of his term, and allowing the proprietors of stereotype plates still to use them. But supposing some inconvenience to attend this act of justice to authors, which I should greatly regret, still are the publishers entirely without consolation? In the first place, they would, as the bill now stands, gain all the benefit of the extension of future copyrights, hereafter sold absolutely to them by the author, and, according to their own statement, without any advance of price. If this benefit is small—is contingent—is nothing in 500 cases to one, so is the loss in those cases in which the right will result to

the author. But it should further be recollected that every year, as copyrights expire, adds to the store from which they may take freely. In the infancy of Literature a publisher's stock is scanty unless he pays for original composition; but as one generation after another passes away, histories, novels, poems—all of undying interest and certain sale—fall in; and each generation of booksellers becomes enriched by the spoils of time, to which he has contributed nothing. If, then, in a measure which restores to the author what the bookseller has conventionally received, some inconvenience beyond the just loss of what he was never entitled to obtain be incurred, is not the balance greatly in his favour? And can it be doubted that, in any case where the properties of the publisher and of the author's representatives are imperfect apart, either from additions to the original, or from the succession of several works falling in at different times, their common interest would unite them?

One of the arguments used, whether on behalf of the trade or the public I scarcely know, against the extension of the term, is derived from a supposed

analogy between the works of an author and the discoveries of an inventor, whence it is inferred that the term which suffices for the protection of the one is long enough for the recompense of the other. It remains to be proved that the protection granted to patentees is sufficient; but supposing it to be so, although there are points of similarity between the cases, there are grounds of essential and obvious distinction. In cases of patent, the merits of the invention are palpable; the demand is usually immediate; and the recompense of the inventor, in proportion to the utility of his work, speedy and certain. In cases of patent, the subject is generally one to which many minds are at once applied; the invention is often no more than a step in a series of processes, the first of which being given, the consequence will almost certainly present itself sooner or later to some of those minds; and if it were not hit on this year by one, would probably be discovered the next by another; but who will suggest that if Shakspeare had not written Lear, or Richardson Clarissa, other poets or novelists would have invented them? In practical science every discovery is a step to some-

thing more perfect; and to give to the inventor of each a protracted monopoly would be to shut out improvement by others. But who can improve the masterpieces of genius? They stand perfect; apart from all things else; self-sustained; the models for imitation; the sources whence rules of art take their origin. Still they are ours in a sense in which no mechanical invention can be;—ours not only to ponder over and to converse with,—ours not only as furnishing our minds with thoughts, and peopling our weary seasons with ever-delightful acquaintances; but ours as suggesting principles of composition which we may freely strive to apply,—opening new regions of speculation which we may delightfully explore,—and defining the magic circle, within which if we are bold and happy enough to tread, we may discern some traces of the visions they have invoked, to embody for our own profit and honour; for the benefit of the printers and publishers who may send forth the products of these secondary inspirations to the world; and of all who may become refined or exalted by reading them.

But it may be said that this argument applies only

to works of invention, which spring wholly or chiefly from the author's mind, as poems and romances; and that works which exhibit the results of historical search, of medical or scientific skill, and of philosophic thought, ought to be governed by the same law as improvements in mechanics employed on timber and metal. The analogy here is, to a certain extent, correct, so far as it applies to the fact discovered, the principle developed, the mode invented; the fallacy consists in this, that while the patent for fourteen years secures to the inventor the entire benefit of his discovery, the copyright does not give it to the author for a single hour, but, when published, it is the free unincumbent property of the world at once and for ever; all that the author retains is the sole right of publishing his own view of it in the style of illustration or argument which he has chosen. A fact ascertained by laborious inquiry becomes, on the instant, the property of every historian; a rule of grammar, of criticism, or of art, takes its place at once in the common treasury of human knowledge; nay, a theory in political economy or morals, once published, is the property of any man to accept, to analyse, to reason on, to carry out, to

make the foundation of other kindred speculations. No one ever dreamed that to assume a position which another had discovered; to reject what another had proved to be fallacious; to occupy the table-land of recognised truths and erect upon it new theories, was an invasion of the copyright of the original thinker, without whose discoveries his successors might labour in vain. How earnest, how severe, how protracted, has been the mental toil by which the noblest speculations in regard to the human mind and its destiny have been conducted! Even when they attain to no certain results, they are no less than the beatings of the soul against the bars of its clay tenement, which show by their strength and their failure that it is destined and propertied for a higher sphere of action. Yet what right does the author retain in these, when he has once suggested them? The divine philosophy, won by years of patient thought, melts into the intellectual atmosphere which it encircles; tinges the dreams and strengthens the assurances of thousands. The truth is, that the law of copyright adapts itself, by its very nature, to the various descriptions of composition, preserving to the author, in

every case, only that which he ought to retain. Regard it from its operation on the lowest species of authorship—mere compilation, in which it can protect nothing but the particular arrangements, leaving the materials common to all; through the gradations of history, of science, of criticism, of moral and political philosophy, of divinity, up to the highest efforts of the imagination, and it will be found to preserve nothing to the author, except that which is properly his own; while the free use of his materials is open to those who would follow in his steps. When I am asked, why should the inventor of the steam-engine have an exclusive right to multiply its form for only fourteen years, while a longer time is claimed for the author of a book? I may retort, why should he have for fourteen years what the discoverer of a principle in politics or morals, or of a chain of proof in divinity, or a canon of criticism, has not the protection of as many hours, except for the mere mode of exposition which he has adopted? Where, then, the analogy between literature and mechanical science really exists, that is, wherever the essence of the literary work is, like mechanism, capable of being

used and improved on by others, the legal protection will be found far more liberally applied to the latter—necessarily and justly so applied—but affording no reason why we should take from the author that which is not only his own, but can never, from its nature, be another's.

It has, sir, been asserted, that authors themselves have little interest in this question, and that they are, in fact, indifferent or hostile to the measure. True it is, that the greatest living writers have felt reluctant to appear as petitioners for it, as a personal boon; but I believe there are few who do not feel the honour of Literature embarked in the cause, and earnestly desire its success. Mr. Wordsworth, emerging for a moment from the seclusion he has courted, has publicly declared his conviction of its justice. Mr. Lockhart has stated his apprehension that the complete emancipation of the estate of Sir Walter Scott from its incumbrances depends on the issue; and, although I agree that we ought not to legislate for these cases, I contend that we ought to legislate by the light of their examples. While I admit that I should rejoice if the immediate effect of this mea-

sure were to cheer the evening of a great poet's life, to whom I am under intellectual obligations beyond all price, and to enlarge the rewards of other living authors whose fame will endure, I do not ask support to this measure on their behalf; but I present these as the proofs of the subsisting wrong. The instances pass away; successive generations do successive injustice; but the principle is eternal. True it is that in many instances, if the boon be granted, the errors and frailties which often attend genius may render it vain; true it is that in multitudes of cases it will not operate; but by conceding it we shall give to authors and to readers a great lesson of justice; we shall show that where virtue and genius combine we are ready to protect their noble offspring, and that we do not desire a miserable advantage at the cost of the ornaments and benefactors of the world. I call on each party in this house to unite in rendering this tribute to the minds by which even party associations are dignified. I call on those who anticipate successive changes in society, to acknowledge their debt to those who expand the vista of the future, and people it with goodly visions; on those who fondly linger on

the past, and repose on time-hallowed institutions, to consider how much that is ennobling in their creed has been drawn from minds which have clothed the usages and forms of other dayswith the symbols of venerableness and beauty ; on all, if they cannot find some common ground on which they may unite in drawing assurance of progressive good for the future from the glories of the past, to recognise their obligation to those, the products of whose intellect shall grace, and soften, and dignify the struggle !

THE motion was opposed by Mr. Hume, Mr. Warburton, the Solicitor-General, Mr. Pryne, Mr. Warde, Mr. Grote, the Attorney-General, Mr. John Jervis, and Sir Edward Sugden; and supported by Sir Robert Inglis, the Chancellor of the Exchequer, Mr. D'Israeli, Mr. Milnes, and Mr. Wynn. On the division the numbers were, for the second reading, 39; against it, 34. On the question that the bill should be committeed, Mr. Philip Howard, who had voted in favour of the second reading, moved that it be referred to a select committee. This was declined by the mover; and after a short conversation, the house divided—for the committal of the bill in the usual course, 38; against it, 31;—upon which the bill was ordered to be committeed on the following Wednesday.

On Wednesday, 2nd of May, for which day the committee was fixed, there was *no house;* and the "dropped order" was fixed for the following Wednesday. On that day, Mr. Wakley,—adverting to the thinness of the house on the second reading of the bill, and the small majority

by which it was carried,—pursuant to notice previously given, opposed the motion for the Speaker leaving the chair. His speech on this occasion consisted chiefly of statements with which he had been supplied by Mr. Tegg, of the low prices at which he had purchased several popular works of living authors, some of whom were members of the house;—a series of personalities which afforded that kind of amusement which attend such allusions, and which, being delivered without ill-nature, gave no pain to the authors who were the subject of them; but not tending with very exact logic to show that the extension of the copyright, which protected all these works, would injure the public by maintaining a price beyond its reach. The motion for going into committee was also opposed by Mr. Warburton and Mr. Strutt, and supported by Mr. Wolverly Attwood, Mr. Milnes, and Sir Robert Inglis. On a division the numbers were,—for the committee, 116; against it, 64. In a desultory conversation which followed, Sir Edward Sugden complained that, as the bill then stood, the children of an author who had assigned his copyright to them "in consideration of natural love and affection," would be precluded from enjoying the proposed extension —the justice of which was felt by the supporters of the bill—and obviated in its further progress. The house then resolved itself into committee; but the lateness of the hour rendered it impossible to proceed with details; and the evening was spent without the measure having made any progress, except in the great increase of the majority by which it was supported.

The state of public business on the following Wednesdays,—for which day the bill was always, without objection, fixed, and on which alone it had any chance of being discussed—prevented its further consideration till Wednesday, 6th of June. In the interval, an anxious consideration of the objections of the publishers of London and Edinburgh to the clause whereby a reverting interest in copyrights absolutely assigned was created in favour of authors, convinced those who had charge of the bill that it was impossible by any arrangements to prevent the inconvenience and loss which they suggested as consequential on such a boon to authors. They, therefore, determined to confine the operation of the bill on subsisting copyrights to cases in which the author had retained some interest on which it might operate; and with this, to their honour, the publishers were satisfied. Other alterations in matters of detail were suggested, which induced the mover to listen to the wishes of both friends and opponents of the bill, that it should be reprinted and committeed again. When, therefore, on Wednesday, 6th of June, the bill again was before the house, and Mr. Warburton urged that it should be reprinted, the mover at once acceded to his desire; briefly stated the principal alterations which he had accorded to the wishes of the publishers, and did justice to the spirit of fairness and moderation with which they had forborne to ask for themselves any share of the benefits proposed for authors; and had only desired that these benefits should not be attended by undeserved injury to themselves. Lord John Russell, who had hitherto refrained from expressing any

opinion on the measure, took this opportunity of throwing out a hesitating disapproval, or rather, doubt, but did not object to the course proposed. The bill was accordingly committeed *pro formâ*, ordered to be reprinted, and its further consideration adjourned to Wednesday, 20th of June. In pursuance of this arrangement, the bill was reprinted in nearly its present form; and came on for discussion at a late hour on the 28th of June. It was then obvious that,—considering the opposition with which its details were menaced by Mr. Warburton and others, and the state of the order-book,—no reasonable hope remained of carrying it through committee, and the subsequent stages, during the session. When, therefore, the period of its discussion arrived, it was, on the friendly recommendation of Mr. Gladstone, withdrawn, with a pledge for its early introduction in the ensuing year.

On Tuesday, 12th of February, in the session of 1839, leave was obtained to bring in the bill, which, nearly in the state in which it had been settled the preceding year, was introduced the same evening. On Wednesday, 28th of February, its second reading was moved;—after the presentation of the petitions which are alluded to in the following sheets, and which, with a few other petitions afterwards presented, will be found in the appendix.

SPEECH

DELIVERED

In the House of Commons,

THURSDAY, 28th FEBRUARY, 1839,

ON MOVING THE SECOND READING OF

A BILL TO AMEND THE LAW OF COPYRIGHT.

SPEECH,

&c. &c.

MR. SPEAKER,

AFTER the attention which, in past sessions, has been rendered by this house to the interests of Literature, as affected by the laws of copyright—an attention gratefully acknowledged in the petitions which I have just presented—I shall best discharge my duty by reminding you, without preface, of the question which we once more are called on to decide, and by stating the position in which it stands, and the materials which we have to assist us in answering it. That question is, *Whether the present limitation of copyright is just?* I will sum up my reasons for contending for the negative in language adopted by some of the distinguished persons whose petitions are

before you. They allege—"That the term during which the law secures to authors the profits arising from the productions of their own industry and genius is insufficient to provide for the fair reward of works written to endure; that the extension of the term proposed by this bill would encourage such compositions; that it would enable individuals to devote their powers to the lasting benefit and delight of mankind, without the apprehension that in so doing they shall impoverish their own descendants; and that, while it would tend to the profit only of the greatest and the best of those engaged in literature, it would confer dignity and honour on the pursuits of all."

These propositions to which I seek your assent, are now for the first time embodied by some of the most distinguished authors as the grounds of their own prayer, and will probably be expressed by many others, whose feelings I know, if you permit this bill to proceed. When I first solicited for these arguments the notice of this house, I thought they rested on principles so general; that the interests of those who labour to instruct and illustrate the age in which

they live are so inseparably blended with all that affects its morality and its happiness; that the due reward of the greatest of its authors is so identified with the impulses they quicken—with the traits of character they mirror—with the deeds of generosity, of courage, and of virtue, which they celebrate, and with the multitudes whom they delight and refine, that I felt it was not for them alone that I asked the shelter of the law, and I did not wish to see them soliciting it as a personal boon. The appeal, though thus unsupported, was not unfelt; and the bill proceeded, without a hint of opposition, until the demise of the crown closed the session and stopped its progress. In the interval which thus occurred, a number of eminent publishers saw reason to apprehend that certain clauses in the bill, by which it was proposed to give to authors who had assigned their copyrights under the subsisting law a reverting interest after the expiration of its term, would injuriously affect their vested rights, and they naturally prepared to oppose it. They were accompanied or followed in this opposition by various persons connected with the mechanical appliances of literature—by master-printers,

compositors, pressmen, type-founders, paper-makers, and bookbinders, smitten with the strange fear that to extend the term of copyright (though they all agree that the extension would operate only in one case out of five hundred) would destroy their trade, and their petitions were plenteously showered on the table of the house. Regard to the state of public business, and a belief that, although supported by increasing majorities, the nature of the opposition with which the bill was threatened would multiply and prolong the discussions beyond the bounds of the time which could be applied to such an object, induced me, at the suggestion of my hon. friend the member for Newark, again to withdraw it. Having been taunted with the absence of petitions in favour of the measure, I have now the support I did not before seek; and I doubt not, the example once set will be followed by many who feel deeply the justice of the cause, and are indignant at the grounds on which it has been opposed. Few as these petitions are, compared with the number of those who desire the success of this bill, I shall not fear to oppose the facts they state, the reasonings they suggest, or the autho-

rity with which they are stamped, with those accumulated by its opponents during the last session.

Having carefully perused the petitions against us, I am surprised to find how utterly destitute they are of information really bearing on the case, with an exception which does not now apply to the bill; for I may dismiss the complaints of the eminent members of the publishing trade, and of all who sympathised in their fears. Impressed with the force of some of their objections, I proposed various means by which I hoped to remove them, without denying to authors who had assigned their subsisting interest the benefits of that extended term which it was proposed to create. But I was compelled to abandon the attempt as hopeless, and to content myself with applying the extension to the cases of authors who had retained an interest in their works, and to books hereafter to be written. In this alteration I have offered nothing to the publishers, except in the rare and peculiar case of a joint interest co-extensive with the entire copyright, in which case, unable to sever the benefit without extreme inconvenience to the publisher, I have chosen rather to grant it to both than to neither; and it is

to the honour of the publishers, that, instead of seeking an unworthy compromise, they have been satisfied with the mere withdrawal of clauses which would have subjected them to certain inconvenience, and probable loss. Their opposition has ceased with the provisions which raised it; and with it all the allegations in the petitions which relate to it may be dismissed. There remain those of the printers and their allies, persons whose interests deserve the careful regard of the Legislature, but whose opinions have no authority beyond the reasonings they adduce to support them. They are not like persons engaged in some occupation on which there is an immediate pressure, which they who feel most keenly can most vividly explain; nor like persons apprehending some change directly affecting their profits, under circumstances peculiarly within the range of their experience; they are mere speculators, like ourselves, on the probabilities of the distant future. All their apprehensions centre in one—that if the term of copyright be extended, fewer books will be printed; fewer hands will be required; fewer presses set up; fewer types cast; fewer reams of paper needed; and (though I know

not whether the panic has penetrated to the iron-mine, or ascended to the rag-loft) that a paralysis will affect all these departments of trade. Now, if there were any real ground for these busy fears, they would not want facts to support them. In the year 1814, when the term of copyright was extended from fourteen to twenty-eight years, the same classes expressed similar alarms. The projected change was far more likely to be prejudicial to them than the present, as the number of books on which it operated was much larger; and yet there is no suggestion in their petitions that a single press remained unemployed, or a paper-mill stood still; and, indeed, it is matter of notoriety, that since then publications have greatly multiplied, and that books have been reduced in price with the increase of readers. The general arguments of these petitions are those which the opponents of the measure urge, all resolving themselves into the assumptions, that if copyrights be extended, books will be dearer; that cheap books are necessarily a benefit to the public; and that the public interest should prevail over the claims of those who create the materials of its instruction. But there is one petition which

illustrates so curiously the knowledge which these petitioners possess on the subject of their fears, and the modesty with which they urge them, that I must trespass on the patience of the house while I offer a specimen of its allegations. It is a petition presented by the hon. member for Kilkenny, agreed on at a public meeting at the Mechanics' Institute, Southampton-buildings, by "compositors, pressmen, and others engaged in the printing profession." After a sweeping assumption of the whole question between authors and readers, these petitioners thus designate the application made to this house on behalf of Literature:—"The books to which it is assumed the present law does not afford sufficient protection are those of a trashy and meretricious character, whose present popularity deludes their writers with a vain hope of an immortal reputation." Now, the works which were named by way of example, when this bill was introduced, were those of Coleridge, of Wordsworth, and of Sir Walter Scott; and if these are intended by the petitioners, I fear they have made no good use of cheap books, or that the books they have read are dear at any price. If the object of the bill is the protection

of "trashy and meretricious" works, it may be absurd, but it must be harmless; for, as to such works, it must be a dead letter. The printers who fear that one set of "trashy and meretricious" works should endure after the lapse of twenty-eight years, and should thus deprive them of the opportunity of printing a brilliant succession of such works, to which they do not refuse the aid of their types, partake an apprehension like the alarm of some nervous remainderman, who should take fright at the creation of a term of 999 years by a tenant for life, overlooking in his fears the necessary condition "if he should so long live;" for so surely as natural death will await the decay of the human frame, shall oblivion cover the "trashy and meretricious" book, and leave room for successor after successor to employ compositors, to sparkle and expire. But, the petitioners proceed—"Even supposing their success would be permanent, the present high profits derived by their authors are an ample return for the time employed in their composition." So these gentlemen, forgetting that the chief ground of the bill is, that the works on behalf of which its extension is sought often begin to repay

their authors only when the copyright is about to expire, think themselves competent to estimate the anxieties, the heart-aches, the feverish hopes, the bitter disappointments, the frequent failures, the cheerless toils, with which an author's time is filled, and which disturb them little when they are arranging his words. They proceed—"while it is proved, that books of deep research and intrinsic value would not be rendered more valuable by an extension of the law of copyright, however extended that law might be." How not more valuable? Not much more valuable to sell, perhaps, but more valuable to preserve; else, if there is no gain to the author, where is the loss to the public? After a round assertion, "that the bill must be viewed as one injuriously affecting the booksellers, bookbinders, paper-makers, type-founders, and all branches connected with the printing business," they then proceed to extol their own profession:—"That the profits derived from a book depend not on the art of writing, but on the art of printing; for that, without the facilities which improved mechanical improvements afford, the number of copies would be few and high-priced, and the

profits of the author lower; and, therefore, it is unjust that authors should endeavour to injure by exclusive laws a profession to which they are indebted for the rank they hold and the wealth they possess." Surely the old critic Dennis, who, when he heard the thunder roll over the mimic scenes, used to claim it as his own, was reasonable compared to these gentlemen of the Mechanics' Institute. Whatever may be the benefit which the art of printing has conferred on genius — genius which had achieved imperishable triumphs long before its discovery, it is astounding to hear this claim made by those who are now engaged in a simple mechanical pursuit. The manufacturer of bayonets or of gunpowder might as well insist that he, and not the conqueror of Waterloo, should be the recipient of national gratitude. Where would their profession be if no author had written? There are some things more precious even than knowledge; and, strange as it may seem to the utilitarian philosophers, I venture to think gratitude one; and if it is, I would ask these petitioners to consider how many presses have been employed and honoured, how many families in their own class have been enriched, by the unceasing

labours of a single mind—that of Sir Walter Scott—exhausted, fading, glimmering, perishing from this world in their service!

As the concluding paragraph of this petition merely repeats an analogy of literary works to mechanical invention, which I have grappled with before, and which, if necessary, I am ready to expose again, I will pass from it and from the petitions against this bill—which, I assert, do not present a single fact for the information of the house—to the petitions which disclose the grievances and the claims of authors. And first, to show, by way of example, how insufficient the present term is to remunerate authors who contemplate works of great labour and research, I will refer to the petition of Mr. Archibald Alison, sheriff of the county of Lanark. This gentleman, son of the venerable author of the celebrated "Essay on Taste," was brought up to the Scottish bar, and being gifted with excellent talents, and above all with that most valuable of talents, unwearied industry, enjoyed the fairest prospects of success. Having, however, conceived the design of writing the history of Europe during the French Revolution, he resigned those hopes for the

office of Sheriff of Lanarkshire, which, limiting his income to a moderate sum, left him at leisure to pursue his scheme. On that work he has now been engaged for twenty-five years. To collect materials for its composition he has repeatedly visited the principal cities of Europe, and his actual expenditure in books and journeys to lay the foundations of his work has already exceeded 2,000*l.*, and will be doubled if he should live to complete it. Seven volumes have successively appeared; the copyright is unassigned; and as the work is making a regular progress, fourteen years must elapse before the pecuniary outlay will be repaid. At the expiration of twenty-eight years, supposing the work to succeed on an average calculated on its present sale, its author will only obtain half what he might have acquired by the devotion of the same time to ephemeral productions; so that, unless his life should be prolonged beyond the ordinary lot of man, its labours to his family will be almost in vain, unless you considerably extend the term of his property; and then, in return for his sacrifices, he will leave them a substantial inheritance. Of a similar nature is the case of another petitioner, Dr. Cook, Professor of

Moral Philosophy in the University of St. Andrew's, author of the "History of the Reformation in Scotland," a "History of the Church of Scotland," and of other historical works which are now standard authorities, and on the composition of which he has been engaged for the last thirty years. In their composition he has incurred great expense. The copyrights are vested in himself; but it depends on your decision whether his family shall derive any advantages from them. He concludes—"considering this law as at variance with the essential principles of justice, and calculated to impede the course of literature and science," by earnestly imploring the house to "pass this bill for so extending the term of copyright as will secure the interest of the authors of extensive and laborious works without in the slightest degree interfering with the public good." Dr. James Thomson, the Professor of Mathematics in the University of Glasgow, states the nature and history of several elementary works, the products of his labour, which are slowly beginning to recompense him, and especially invites attention to the manner in which the law bears on works used as text-books in schools and

universities, having to contend against the partialities of teachers for books with which use has made them familiar, and of booksellers for works in which they are interested, and which may only begin to obtain attention when the copyright is about to cease. Sir David Brewster has spent a most laborious and most useful life, and still spends it, in the composition of works which at once instruct and charm, and which can only remunerate him by the extension of the term. Now, I ask, is there no property in these petitioners worthy of protection? "No," said, and will say, some of the opponents of this bill; "none. We think that from the moment an author puts his thoughts on paper and delivers them to the world, his property therein wholly ceases." What! has he invested no capital? embarked no fortune? If human life is nothing in your commercial tables—if the sacrifice of profession, of health, of gain, is nothing—surely the mere outlay of him who has perilled his fortune to instruct mankind may claim some regard! Or is the interest itself so refined—so ethereal—that you cannot regard it as property, because it is not palpable to sense as to feeling? Is there any justice in this? If

so, why do you protect moral character as a man's most precious possession, and compensate the party who suffers unjustly in that character by damages? Has this possession any existence half so palpable as the author's right in the printed creation of his brain? I have always thought it one of the proudest triumphs of human law that it is able to recognise and to guard this breath and finer spirit of moral action—that it can lend its aid in sheltering that invisible property which exists solely in the admiration and affection of others; and if it may do this, why may it not protect his interest in those living words which, as well observed by that great thinker, Mr. Hazlitt, are, "after all, the only things which last for ever?"

From these examples of works of labour and pecuniary outlay, I turn to that of a poet, whose name has often been mentioned in the discussion of this measure, who has supported it by his published opinion, but who has now, for the first time, enforced it by petition. Mr. Wordsworth states that he is on the point of attaining his seventieth year; that forty-six years ago he published his first work, and that he has continued to publish

original works at various intervals down to 1835. The copyright in a considerable part of these works is now contingent on his life; in a few years the far larger portion of them will be holden by the same tenure; and his most extensive and elaborate work, "The Excursion," will be in this condition, if he should be spared for four years longer. He represents that "having engaged and persevered in literary labours less with the expectation of producing speedy effect than with a view to interest and benefit mankind remotely, though permanently, his works, though never out of demand, have made their way slowly into general circulation;" and he states as a fact, directly bearing on this question, that his works have, within the last four years, brought a larger emolument than in all preceding years; which would now be bounded by his death; and the greater part of which, if he had died four years ago, would have been wholly lost to his family. How will this case be answered? I suppose, as I have heard it, when less fully stated, answered before, that it proves that there is no necessity for the extension of copyright, because without its encouragement a poet thus gifted has been

ready to devote his powers amidst neglect and scorn to the highest and the purest aims. I will not answer by merely reminding those who urge this ungenerous argument that there may not always be attendant on such rare endowments the means of offering such a sacrifice, either from independent resources or from simple tastes. I reply at once, that the argument is at utter variance with the plainest rules of morality and justice. I should like to hear how it would be received on a motion for a national grant to one who had fought his country's battles! I should like to hear the indignation and the scorn which would be expressed towards any one who should venture to suggest that the impulses which had led to heroic deeds had no respect to worldly benefits; that the love of country and glory would always lead to similar actions; and that, therefore, out of regard to the public, we ought to withhold all reward from the conqueror. And yet the case of the poet is the stronger; for we do not propose to reward him out of any fund but that which he himself creates—from any pockets but from those of every one whom he individually blesses—and our reward cannot be misapplied when we take

Time for our Arbitrator and Posterity for our Witnesses!

It cannot have escaped the attention of the house that many of the petitioners are professors in the universities of Scotland; and from the laborious nature of their pursuits—their love of literature, fostered at a distance from the applause of the capital, and from the independence and the purity of their character, I venture to think that their experience and their judgments are entitled to peculiar weight. Now, the University of St. Andrew's, after powerfully urging the claims of authors generally, thus submits the peculiar claims of their countrymen:—"Your petitioners venture to submit, that in Scotland, where the few rewards which used to be conferred on clergymen of literary and scientific merit have been withdrawn, and where the incomes of the professors in her universities have been allowed to suffer great diminution, these individuals have strong motives to solicit, and additional grounds to expect, that their literary rights may be extended, and rendered as beneficial as possible to themselves and their families." Among these professors, and among the petitioners for this bill, is

a clergyman unsurpassed in Christian eloquence, in reach of thought, in unwearied zeal; who has disregarded ease and intellectual delights prodigally to expend his energies on that which he regards as the sacred cause of the church and religion of his country; and who depends on his copyrights in such of the labours of his mind as he has committed to the press to make amends for a professional income far below his great intellectual claims. In addressing me on the subject of this bill, Dr. Chalmers says, "My professional income has always been so scanty, that I should have been in great difficulties, had it not been for my authorship; and I am not aware of a more desirable compensation for the meagre emoluments of the offices I have held, than that those profits should be secured and perpetuated in favour of my descendants." And who among us, not only of those who sympathise with his splendid exertions on behalf of the church of Scotland, but of all who feel grateful for the efforts by which he has illustrated and defended our common faith, will not desire that wish to be fulfilled? How one of the publishers of his country feels towards such authors may be seen in the petition

of Mr. Smith, of Glasgow, who even desires to limit the power of assigning copyright to twenty-one years, and then contrasts his case with that of those by whose creations he has been enriched. He states, "that he has obtained estate and competence by the sale of books published or sold by him, which property he has a right to entail or give in legacy for the benefit of his heirs; while the authors who have produced the works that have enriched him have no interest for their heirs by the present law of copyright in the property which they have solely constituted." When I find these petitions signed by the most distinguished ornament of the Scotch church, Dr. Chalmers—and by one of the most eminent among the Dissenting divines, Dr. Wardlaw, I cannot help associating with them a case which came under my notice a few days ago on an application to me to assist a great-grandson of Dr. Doddridge, in presenting a memorial to the bounty of the Crown. Here was the descendant of one of the idols of the religious world, whose works have circulated in hundreds of thousands of copies, enduring a state of unmerited privation and suffering, from which a trifle on each volume of his ancestor's works

now adorning the libraries of the wealthy Dissenters would amply relieve him!

On these contrasted cases the house has now to decide. But before I leave the question in its hands, it is fit I should advert for a moment to those opponents of the bill who, disclaiming the publishers and printers, appear on behalf of what they call the public, and who insist that it is our duty to obtain for that public the works of genius and labour at the lowest possible price. Now, passing over a doubt, which I dare scarcely hint in their presence, whether the diffusion of cheap copies of any work necessarily implies in an equal degree the diffusion of its beauties or the veneration of its injunctions, permit me to ask whether even for the public it is not desirable that works should be correct as well as cheap, and that it should have the benefit of the matured judgment of its instructors? Now, this can only be effected by permitting the family of the author to watch over his fame. An author who, in a life devoted to literature, has combined gifts of the historian and the poet—Mr. Southey—who has thought the statement of his case might have more effect than a petition, has permitted

me to elucidate this view of the case by his example. He has lately published a complete edition of his poems, correcting the blemishes which during many years have presented themselves to his severer judgment; his copyrights in many of the original poems will expire with his life; in the corrected edition his family will enjoy an interest, but in the original poems they will retain none; and it will be in the power of Mr. Tegg, or any other of those worthy benefactors of the public who keep duteous watch over the deathbed of copyrights, to republish any of those poems with all their repented errors, and the addition of those gross blunders which are always introduced when a reprint undergoes no revision but that of the printer. But is it even certain that the books thus carelessly printed will be actually cheaper in price than if the descendants of the author published them for their own advantage? It is not fair to judge of this by recent instances, produced in the first eagerness of the freebooters of the trade to seize on and parade their spoils. It should be recollected that a proprietor who uses only one machine for publication may, with profit to himself, supply the market more cheaply than numbers

who have separate expenses, and look for separate gains. But if the argument be doubtful, the fact at least is clear, and I may call the hon. member for Finsbury as my witness to prove it; for he has shown in this house, to the offence of none, but the amusement of all, and to the proof of my case, how cheaply books charged with an expensive copyright may be obtained of his friend Mr. Tegg, who, he states, nevertheless, has a stock worth more than 170,000*l.*, which, if the principles of my opponents be fairly applied, is justly distributable among their favourite and much-injured public. But grant the whole assumption—grant that if copyright be extended, the few books it will affect will be dearer to the public by the little the author will gain by each copy—grant that they will not be more correct or authentic than when issued wholesale from the press; still is there nothing good for the people but cheap knowledge? Is it necessary to associate with their introduction to the works of the mighty dead the selfish thought that they are sharing in the riot of the grave, instead of cherishing a sense of pride that while they read, they are assisting to deprive the grave of part of its wither-

ing power over the interests of survivors? But if it were desirable, is it possible to separate a personal sympathy with an author from the first admiration of his works? We do not enter into his labours as into some strange and dreamy world, raised by the touch of a forgotten enchanter; the affections are breathing around us, and the author being dead, yet speaks in accents triumphant over death and time. As from the dead level of an utilitarian philosophy no mighty work of genius ever issued, so never can such a work be enjoyed except in that happy forgetfulness of its doctrines, which always softens the harshest creed. But I believe that those who thus plead for the people are wholly unauthorised by the feelings of the people; that the poor of these realms are richer in spirit than their advocates understand them; and that they would feel a pride in bestowing their contributions in the expression of respect to that great intellectual ancestry whose fame is as much theirs as it is the boast of the loftiest amongst us. I do not believe that the people of Scotland share in the exultation of the publishers who have successively sent among them cheap editions of the "Lay of the Last Minstrel," "Marmion," and

the "Lady of the Lake;" that they can buy them at a lower price than if the great minstrel who produced them were still among the living. I cannot believe that they can so soon forget their obligations to one who has given their beautiful country a place in the imagination of mankind which may well compensate for the loss of that political individuality they so long and so proudly enjoyed, as to count with satisfaction the pence they may save by that premature death which gave his copyrights to contesting publishers, and left his halls silent and cold. It is too late to do justice to Burns; but I cannot believe the peasant who should be inspired by him to walk "in glory and in joy, following his plough by the mountain side," or who, casting his prideful look, on Saturday evening, around his circle of children, feels his pleasure heightened and reduplicated in the poet's mirror, would regret to think that the well-thumbed volume which had made him conscious of such riches had paid the charge of some sixpence towards the support of that poet's children.

There is only one other consideration I would suggest before I sit down, which relates not to

any class, but to the community and our duties towards them. It is thus expressed in Mr. Wordsworth's petition:—"That this bill has for its main object to relieve men of letters from the thraldom of being forced to court the living generation to aid them in rising above slavish taste and degraded prejudice, and to encourage them to rely on their own impulses." Surely this is an object worthy of the Legislature of a great people, especially in an age where restless activity and increasing knowledge present temptations to the slight and the superficial which do not exist in a ruder age. Let those who "to beguile the time look like the time," have their fair scope—let cheap and innocent publications be multiplied as much as you please,—still the character of the age demands something impressed with a nobler labour, and directed to a higher aim. "The immortal mind craves objects that endure." The printers need not fear. There will not be too many candidates for "a bright reversion," which only falls in when the ear shall be deaf to human praise. I have been accused of asking you to legislate "on some sort of sentimental feeling." I deny the charge: the living truth is with us; the

spectral phantoms of depopulated printing-houses and shops are the baseless fancies of our opponents. If I were here beseeching indulgence for the frailties and excesses which sometimes attend fine talents—if I were here appealing to your sympathy on behalf of crushed hopes and irregular aspirations, the accusation would be just. I plead not for the wild, but for the sage; not for the perishing, but for the eternal; for him who, poet, philosopher, or historian, girds himself for some toil lasting as life—lays aside all frivolous pursuits for one virtuous purpose—that when encouraged by the distant hope of that "All-hail hereafter," which shall welcome him among the heirs of fame, he may not shudder to think of it as sounding with hollow mockery in the ears of those whom he loves, and waking sullen echoes by the side of a cheerless hearth. For such I ask this boon, and through them for mankind—and I ask it in the confidence with the expression of which your veteran petitioner Wordsworth closed his appeal to you—"That in this, as in all other cases, justice is capable of working out its own expediency!"

THE motion for the second reading of the bill was met by Mr. Hume with an amendment that it be read a second time that day six months. The original motion was supported by Mr. O'Connell, Sir Robert Inglis, and the Chancellor of the Exchequer; the amendment by Mr. Warburton, Mr. Baines, and the Solicitor-General. On a division the numbers were, for the second reading, 73; against it, 37. At the close of his remarks, Mr. Warburton, for the first time, intimated an objection to its proceeding on Wednesdays; stating, as a reason, that on that day few members were present, that ministers rarely attended, and that the measure was "fully as important as any other which could come before the house." This suggestion was met by the Chancellor of the Exchequer with an earnest recommendation that the mover would adhere to Wednesday. "If," said he, "my honourable and learned friend is induced to fix some other day in compliance with the wish of the hon. member for Bridport, the consequence will be simply this:—it may probably come on about eleven o'clock,—(and my honourable and learned friend

will be fortunate if he can get it on so soon,)—and then honourable members opposed to the measure will get up and loudly exclaim against the impropriety of bringing forward a measure of such vast importance at so late an hour, and an indefinite postponement may follow. If the measure be of such great public importance, we have no right to suppose that members will not attend in their places to discuss it as well on Wednesday as on any other evening. At all events, for myself, I can say that nothing shall keep me from my place, whatever may be the evening —or prevent me from endeavouring to forward, by every means in my power, a measure which I believe to be a just and an excellent one." This advice was adopted,—and notwithstanding a threat from Mr. Warburton, that "if the bill came on for discussion on Wednesday, he would take advantage of every form in order to ensure its rejection," Wednesday, 10th April, being the first day after the Easter recess, was fixed for its committal, when it had the first place of the orders of the day. Unfortunately, when that day arrived, there were not forty members present at four o'clock, and the order becoming "dropped," was re-appointed for the 24th April, and then—for the purpose of ensuring it the first place in the paper—was adjourned till Wednesday the 1st of May.

On this evening, the committal of the bill was moved soon after ten o'clock, when ten cabinet ministers and the most influential members of the opposition were present, in a house exceeding 150 in number. In pursuance of his threat,

Mr. Warburton moved the postponement of the committee until the next day—Thursday; and was seconded by Mr. Wakley. This proposition was resisted by the mover, who urged that Sir Robert Peel's bill for amending the mode of trial in cases of controverted elections stood for committal on the following day—that alone it would occupy the whole evening—and that even if by some accident it were postponed, other bills stood for discussion; and that, in truth, the invitation to postpone the committee until to-morrow, and the prohibition of Wednesday, were really equivalent to an invitation to postpone it for ever. The house divided, in favour of the motion "That Mr. Speaker do now leave the chair," 127; against it, 24. Mr. Warburton then moved the adjournment of the house, in which he was again seconded by Mr. Wakley, but opposed by the Solicitor-General, Mr. S. O'Brien, and Mr. Grote—all opponents of the bill, but all regarding this mode of opposition as unjust. On the division upon the motion for the adjournment, there appeared,—for the motion, 9; against it, 135. Mr. Warburton then moved that the further consideration of the question should be adjourned to Friday; but, after strong remonstrances against his course by Lord Mahon and Sir George Strickland, was informed by the Speaker that his amendment came too late; and the house resolved itself into a committee, with Mr. James Stewart in the chair. Mr. Warburton then moved "That the chairman do report progress;" on which the committee divided,—ayes, 7; noes, 119. As, by the rules of debate, the same motion cannot be put twice consecutively, Mr. Wakley next varied

the terms of the motion, and moved, "That the chairman do leave the chair;" on which the committee divided,—ayes, 9; noes, 91. Mr. Warburton then resumed the lead, and moved "That the chairman do report progress;" on which the division was,—ayes, 9; noes, 77. Mr. Warburton then moved, "That the chairman do leave the chair;" on which there was an immediate division,—ayes, 9; noes, 73. Mr. Warburton then moved, "That the chairman report progress;" on which another division immediately took place,—ayes, 7; noes, 73. After this division, a short conversation took place, in which Mr. Easthope defended the course taken by Mr. Warburton, and Lord Duncannon and Mr. Pryme opposed it: which was closed by another motion, "That the chairman leave the chair;" on which the committee divided,—ayes, 7; noes, 67. Another motion for reporting progress and another division immediately followed,—ayes, 8; noes, 64. Another motion, "That the chairman leave the chair" succeeded, and on a division the numbers were—ayes, 8; noes, 61. The proceeding was then diversified by a short discussion, in which Mr. Warburton defended his course, which was supported by Mr. Hobhouse, and reprobated by Lord Duncannon, Mr. Godson, and Mr. Sibthorp; and, being persisted in, produced another division, in which Mr. Warburton's motion was supported by 9 to 56. The question was then put, "That the bill be read paragraph by paragraph;" on which Mr. Warburton did not move either of his former amendments, but divided on the question itself—which was carried by 57 to 6. On the question "That the first clause stand

part of the bill," Mr. Warburton resumed his motion "That the chairman leave the chair," which was negatived by 64 to 7. He then immediately moved "That the chairman report progress," which was negatived by 61 to 8. After a short conversation on the proposal of Mr. O'Brien to exclude strangers, as the proceeding was not calculated to support the dignity of the house, Mr. Warburton took another division, on which his motion was supported by 5 against 72. He then allowed the first clause repealing former acts, and the second clause, the interpretation clause, to pass, and the third clause, which defined the term of copyright in future publications, to be discussed. On the proposition that the blank left for this period, commencing at the author's death, should be filled up with the words "*sixty years*," a short debate ensued, in which the Solicitor-General suggested that it should be filled up with the words "*three years*," and the Chancellor of the Exchequer with *thirty-one;* after which the committee divided —for the period of *sixty years*, 45; against it, 37. Mr. Warburton then resumed his former course of opposition, and took two more consecutive divisions on the motions "That the chairman report progress," and "That he do leave the chair;" in the first of which he was supported by 8 to 70; in the second, by 7 to 70. Mr. Warburton then, observing that "if he had wished to destroy the bill altogether, he could not have taken a more effectual course than to vote for filling up the blank with the word *sixty*, and believing that his objection being decided in opposition to him, he had succeeded in destroying the bill," gave

way, and allowed the committee to proceed. On the fourth clause—extending the term of subsisting copyright—a short and animated discussion ensued, in which the clause was opposed by Mr. Warburton, the Solicitor-General, Mr. Hobhouse, Lord Howick, and Mr. Strutt, and supported by Mr. Godson, Mr. Milnes, and the mover,—and on a division it was carried by 39 to 20. Midnight being now arrived, it was too late to proceed to the discussion of any disputed clause; the clauses unobjected to were gone through *pro forma*; the committee was adjourned to Tuesday, 7th May,—and, as will be presently seen, the bill was virtually defeated for the session.

On Tuesday, 7th May,—on which day the committee would have had a fair chance of proceeding,—Lord John Russell communicated to the house the intention of ministers to resign in consequence of the division of the preceding night on the government of Jamaica. After this, Mr. SergeantTalfourd proposed to go on with the committee, but yielded to the strong recommendation of Sir Robert Peel, who urged its postponement in consequence of the excitement produced by the position of political affairs; and it was postponed to Tuesday, 14th May. On Monday, 13th May, Sir Robert Peel communicated to the house the circumstances which had prevented the formation of a new ministry; and, as ministers were unable to attend on Tuesday, it was arranged that the house should only sit on Tuesday to proceed with private bills, and consequently it became necessary again to postpone the committee;—which was accordingly done, and Tuesday, 28th May,

was fixed. On that evening, the order of the day would have been reached by about ten o'clock; but, just at the close of the discussion of a divorce bill, the house was counted out on the motion of Mr. Hume. The "dropped order" was, on the following day, fixed for Thursday, the 6th June, with a fair prospect of discussion; for, on the motion of Lord John Russell, orders were to take precedence of motions on Thursdays, and this order was first on the list. A question, however, arose between Lord John Russell and the mover, whether Government was not, as of course, entitled to select the order which should have precedence; and as Lord John Russell was desirous of securing the ensuing Thursday to Sir Robert Peel for the committee on his election bill, he agreed that, if the question were waived, and the copyright bill postponed to Thursday, 13th June, precedence should be absolutely secured to it on that day. The postponement took place accordingly; but before the appointed day arrived, Lord John Russell intimated that he should substitute the Canadian question for the copyright question, and, notwithstanding the remonstrance of Lord Mahon, took that course, but subsequently consented to give the bill the precedence on Thursday, 20th June, and so announced it in the Paper of Notices. On Thursday, 20th June, the bill, for the third Thursday, stood first on the list; but again the hopes of its friends were frustrated by the adjournment of the debate on education, and Lord John Russell's desire that the adjourned debate should proceed at the commencement of public business. While it was felt impossible to resist this wish of the leader

of the House of Commons, it was also felt that previous promises and arrangements had given the promoters of the bill a claim on his assistance to secure them some opportunity of bringing its provisions under discussion; but all they could obtain was permission that it might stand for the following day after the third reading of the Prisons' bill, with an understanding that the discussion should not proceed beyond ten o'clock. The third reading of the Prisons' bill was, however, succeeded by a vote on the Metropolis Police bill; which Mr. Fox Maule, in the absence of Lord John Russell, insisted on taking, expressing his belief that the vote, being merely formal, would not occupy any time. A debate, however, contrary to this expectation, ensued, which was protracted till the stipulated limit of the copyright bill had passed; and although the Chancellor of the Exchequer would, if possible, have then allowed the house to go into committee, this was found incompatible with urgent business, and the committee of supply which succeeded lasted to half-past one. The bill was then successively fixed for Monday, 24th June; Wednesday, 26th June; Wednesday, 3rd July; Thursday, 4th July; Friday, 5th July; and Monday, 8th July,—in order to have the benefit of any chance which might occur—but on each night was never reached until after 12 o'clock, and often later, when it was impossible to ask the House to enter into a question of detail. Having, on application to Lord John Russell, ascertained that there was no hope of Government being able to allot any time to the bill in the state of public business, the members charged

with its conduct, felt they had no option but once more to withdraw it. This was done on Monday the 8th July, with a pledge on the part of the mover to renew the attempt to carry the bill next session, — answered by Mr. Warburton with an assurance that he would continue to oppose it.

APPENDIX.

PETITIONS TO THE HOUSE OF COMMONS

IN FAVOUR OF

THE COPYRIGHT BILL.

APPENDIX.

PETITION OF WM. WORDSWORTH, ESQ.

THE humble petition of William Wordsworth, of Rydal, in the county of Westmoreland,

Sheweth,

That your petitioner is on the point of attaining his seventieth year; that since his first literary production was given to the press forty-six years have elapsed, during which time he has at intervals published various original works, down to the year one thousand eight hundred and thirty-five.

That the copyright in all these works is unassigned, but that in a great part of them, under the existing law, that exclusive right is already contingent upon the duration of his life, and the same would be the case in a very few years with much the larger portion of the remainder, including the most important of these works, a poem entitled "The Excursion," which, in the event of his decease, would

become public property in less than four years from the present time.

That the short term of copyright now allowed by the law is a grievance common to all authors whose works are not liable to be superseded ; but your petitioner takes leave respectfully to represent that this grievance falls still more heavily upon those who, like himself, have engaged and persevered in literary labour, less with the expectation of producing immediate or speedy effect, than with a view to interest and benefit society, though remotely, yet permanently.

That it has happened to your petitioner, in consequence of having written with this aim, that his works, though never out of demand, have made their way slowly into general circulation ; yet he may be permitted to state a fact bearing obviously upon the bill for the extension of the term of copyright now before your honourable house, that within the last four years these works have brought the author a larger pecuniary emolument than during the whole of the preceding years in which they have been before the public. This advantage would have in a great measure been lost to his family had he died a few years since.

That your petitioner ventures to submit to your honourable house his conviction, that the duration of copyright, as the law now stands, is far from being co-extensive with the claims of natural affection : a hardship which will be still more apparent when the condition of distinguished authors is viewed in contrast with that of men who rise to eminence in other professions or employments, whereby they not only

acquire wealth, but have patronage at command, or obtain the means of forming family establishments in business, which enable them to provide at once for their descendants, or for others who have claims upon them. He also trusts, that to the wisdom of the House it will appear that the law, while it fails to pay due regard to the reasonable claims of natural affection, is also at variance, in an unwarrantable degree, with the principles that govern the right of property in all other matters, mechanical inventions and chemical discoveries only excepted, between which, however, and works in several of the highest departments of literature, there is in quality, circumstance, mode of operation, and oftentimes in origin, a broad line of distinction, as was shewn when the subject in the preceding session was under the consideration of Parliament.

That in answer to the objection that the proposed measure would check the circulation of books, it may be urged, first—that to a great majority of publications the measure would be indifferent, they being adequately protected by the law as it now is; that the works which it would affect, though comparatively few, must be presumed to be of superior merit, and therefore to be those that most deserve or require the aid which the bill proposes; further, that from the daily increase of readers, through the spread of education, and the growing wealth of the community, it must become more and more the interest of the holders of the copyright to sell at a low price, and to prepare editions suitable to the means of different classes of society, and that consequently the apprehension of a prolonged privilege

being injurious to the people is entitled to little or no regard.

That it is highly desirable that the printing of works should be under the control of their authors' representatives, however long those works may have been before the public, in order to secure copies correctly printed, and to preclude the sending forth books without the author's recent or last editions or emendations, by those publishers who are ready to seize upon expiring copyrights.

That finally (and to this, above all, your petitioner respectfully entreats the attention of your honourable house) the bill has for its main object, to relieve men of letters from the thraldom of being forced to court the living generation, to aid them in rising above degraded taste and slavish prejudice, and to encourage them to rely upon their own impulses, or to leave them with less excuse if they should fail to do so.

That your petitioner therefore implores your honourable house that the bill before it, for extending the term of copyright, may pass into a law; a prayer which he makes in full faith that in this, as in all other cases, justice is capable of working out its own expediency.

PETITION OF ARCHIBALD ALISON, ESQ.

THE petition of Archibald Alison, Esquire, Advocate, Sheriff of Lanarkshire,

Sheweth,

That your petitioner has, for a great number of years past, turned his attention to the composition of a History of Europe during the French Revolution, from the year seventeen hundred and eighty-nine to the year eighteen hundred and fifteen.

That, with a view to the collection of the materials and the acquisition of the local information requisite for a work of such magnitude, it was unavoidably necessary for your petitioner to visit in person the principal countries in Europe, and purchase the works, in all its languages, bearing upon so extensive a subject.

That, during the last twenty-five years, your petitioner has, with this view, six times repaired to the Continent, and repeatedly visited the principal parts of France, Italy, Switzerland, and Germany; that the cost of these journeys has already exceeded £1500, and the expense of the books found to be necessary for the compilation of the undertaking has amounted to above £2000. If your petitioner lives to complete his undertaking, his total expenditure, on account of it, will be about £4000.

That, during the last twenty-five years, he has been engaged, almost without interruption, except by his professional avocations, in the study and reading requisite for the collection of his materials, and for the last twelve has been sedulously occupied in the composition of the work, which already extends to seven thick volumes, octavo.

That the sale of a work of such magnitude, and so costly, (the price of the seven volumes being £4 15*s*.) especially when undertaken by an author wholly unknown to the public, necessarily was at first very slow.

That it must be obvious to every one acquainted with the subject, that a work of such magnitude and expense, the cost of it when completed being five pounds ten shillings, cannot be expected to get into general circulation in this country, even under the most favourable circumstances, till the accuracy of the information it contains is tested by the examination of intelligent persons of all the countries whose transactions it embraces, and its reputation, if it is to obtain any, is reflected to this country from the adjoining empires. It is now undergoing this ordeal, and is in course of publication at Paris in the French language, and of translation at Leipsic into the German.

That your petitioner has not disposed of the entire copyright of any part of the work, but merely sells to his publishers each successive edition of it as it is called for by the public; two editions have already been printed, and a third will shortly go to press.

That your petitioner, judging of the future profits of the work by what he has already received, cannot expect to be

indemnified for the actual outlay expended in its prosecution, with the interest at the lowest rate on the sums from the period at which they were advanced, in less than fourteen years.

That if the work should stand the test of time and general examination, it cannot be expected to come into general circulation for many years more, and would probably be on the eve of reaching its highest point at the time when the copyright of it, under the existing law, would expire.

That no person can be more strongly impressed than your petitioner is with the extremely uncertain nature of every literary reputation, and the very small number of works which ever survive more than a few years beyond the period of their publication. But if his history, from the labour and expense bestowed on its composition, is destined to survive its author, and if the sale of it shall continue when the work is finished at the same average rate at which it has gone on since the publication commenced, he will be reimbursed for his advances in fourteen years from the period of publication ; in fourteen more he will be remunerated at about one-half the rate which he would have obtained if he had devoted the same time and labour on any of the ordinary publications of the day. But at the same rate of sale, should the copyright be continued for thirty or forty years longer, the work would become a property of great value to your petitioner's family.

Therefore, your petitioner humbly prays your honourable house to take the premises into your consideration, and to

pass into a law the bill now brought into parliament by Mr. Serjeant Talfourd for an amendment of the law relating to copyrights, under such modification as shall to your wisdom seem meet.

PETITION OF DR. THOMSON.

THE humble petition of the undersigned James Thomson, Doctor of Laws, Professor of Mathematics in the University of Glasgow,

Sheweth,

That the said petitioner observes with much satisfaction that a bill has been introduced into your honourable house to amend the law of copyright.

That your petitioner, in the year one thousand eight hundred and nineteen, when Professor of Mathematics, Master of the Mathematical and Mercantile School in the Belfast Academical Institution, published a Treatise on Arithmetic in theory and practice, which he endeavoured to render useful by the introduction of such improvements as were suggested to him by several years' experience in teaching.

That the first edition of the said treatise was not sold off till upwards of six years after the date of its publication, and that in consequence of the expense of printing and advertising, and various other causes, the net profit was a mere trifle.

That by the exertions of the author and the publishers,

the said work has for several years enjoyed a fair share of public favour, and has been stereotyped at considerable expense, and that, by its increased circulation, it is now affording what the author considers to be a fair remuneration for the time employed in its composition, and for the expense and risk incurred in its first publication, and in afterwards stereotyping it.

That should the decease of your petitioner take place before the year one thousand eight hundred and forty-seven, his family, at a time when they could least afford it, would then be deprived of all profit from the sale of said book, though in the opinion of your petitioner as well entitled in common equity to such profit as they would be to any other species of property produced by his labour.

That in the year one thousand eight hundred and twenty-five, your petitioner published an Introduction to Modern Geography and Astronomy, which, like the work already mentioned, has been stereotyped, and is now getting into considerable circulation.

That he has also published the first six and the eleventh and twelfth books of Euclid's Elements, with various comments, and a large appendix, containing additional matter, and also Treatises on Trigonometry and the Differential and Integral Calculus, with other works, which are all remunerating him in a greater or less degree, but of the benefit of which his family may be deprived at no distant period by a publisher who has no right to profit by such works except through the operation of the law, which it is the object of the bill before your honourable house to amend.

That your petitioner begs also to state that the present law presses in a very peculiar manner on the whole class of important works which are used as text books in schools and universities, those books having various difficulties to contend against, such as the partialities of teachers for the books with which use has made them familiar, and the opposition of booksellers to new works, which may interfere with the circulation of others which they may have published on their own account, and that by this means the profits of the sale may be taken from the heirs of the author at the time when the works may be little more than beginning to attract attention, and to gain any considerable circulation.

Your petitioner, therefore, humbly prays your honourable house that the bill to amend the law of copyright now before your honourable house may pass into a law.

PETITION OF JOHN SMITH, ESQ.

THE humble petition of the undersigned John Smith, of Crutherland, in the county of Lanark, and partner in the concern of John Smith and Son, publishers, booksellers, and stationers, in the city of Glasgow,

Sheweth,

That your petitioner has directed his attention to a bill before your honourable house to amend the law of copyright.

That your petitioner has, for upwards of thirty years, exercised the profession of publisher and bookseller in this city, which profession had previously been carried on by his grandfather and father in the said city from the year one thousand seven hundred and fifty-one.

That the question of copyright consequently became the subject of consideration to your petitioner, and that about twenty years ago he wrote an essay claiming for authors the perpetuity of their own copyright, which was founded upon the established principles of law, equity, and reason.

That your petitioner has obtained estate and competence by the sale of books, published or sold by him, which property he has a right to entail or give in legacy for the benefit of his heirs, while the author who produced the works which have enriched him have no interest for their heirs, by the present law of copyright, in the property which they have solely constituted.

That in many instances the limitation of the period of

copyright, by the present law, deprives authors of distinguished talent and learning of adequate remuneration for works on which they have exhausted their time and intellect, and by which they essentially promoted the virtue and happiness of mankind.

That the reservation of copyright to authors who have survived the term of sale allowed by the present law, has been highly beneficial to said authors, and ought equally to have been participated in by the heirs of authors, who predeceased previous to the expiry of the period of sale.

That if authors, or their descendants, were entitled to grant lease of their copyright, it would be the interest of the lessee to provide accurate copies for the public, and at prices adapted to the circumstances of all purchasers.

That your petitioner craves that a clause may be inserted in the bill before your honourable house, providing that no author can dispose of copyright at any one time for a longer period than twenty-one years, at the expiry of which period the copyright to revert to the author or to his family.

That the present acknowledgment of works that were long neglected, support the propriety and equity of such a limitation.

That your petitioner farther craves that no clause be admitted into the bill which could injure the vested rights of any party entitled to claim copyright under the present law.

That your petitioner is decidedly of opinion that the cultivation of the national literature would be cherished

and strengthened by the proposed extension of the term of copyright.

Your petitioner therefore humbly prays that the bill to amend the law of copyright, now before your honourable house, may pass into a law.

JOHN SMITH.

Glasgow, the twenty-second day of February, one thousand eight hundred and thirty-nine.

PETITION OF DR. COOK.

THE petition of George Cook, D.D., Professor of Moral Philosophy in the University of St. Andrews,

Humbly sheweth,

That your petitioner, in the course of the last thirty years, has published various theological and historical works, which have been regarded as standard works in the departments of literature to which they relate—that he devoted much time and incurred great expense in composing his different histories, and in collecting the authentic documents and authorities upon which they are founded—that, from the nature of the publications, they did not obtain an extensive sale, although it may be expected that the demand for them will continue and even increase—that the copyrights are vested in himself, but that, under the present law, his family could derive from them little or no advantage. Considering this law as at variance with the

essential principles of justice, and as calculated to impede the progress of literature and science, your petitioner earnestly implores that your honourable house would be pleased to pass the bill at present before it for so extending the term of copyright, as will secure the interest of the authors of extensive and laborious works, without in the slightest degree interfering with the public good.

PETITION OF THE UNIVERSITY OF SAINT ANDREWS.

THE humble petition of the Rector, Principals, and Masters of the University of St. Andrews,

Sheweth,

That your petitioners, both as individuals and as a body, have a deep interest in every measure which affects the advancement of literature and science.

That your petitioners are convinced that the duration of copyright, as by law established, is too short to be an adequate remuneration for works of profound research and original investigation, and that, instead of operating as an inducement to authors to embark in such undertakings, it directs their talents to subjects of a more popular nature, where the remuneration of their labour is more certain and immediate.

That, as the privilege now granted to authors consists of a fixed term of copyright, and of an additional variable

term depending on their chance of life, its operation is unequal and partial.

It becomes a boon to authors who, at an early period of their life, publish works of easy composition, while it is a tax upon aged and infirm authors, who enrich the literature of their country by the labours of a long life; and hence it tends to encourage superficial productions, and to discourage all works of real and substantial learning.

That the limitation of copyright to so short a period as twenty-eight years is an unwarrantable encroachment on that natural right of property which every man has in the productions of his mind; and that, while all other species of property is placed under the safeguard of the law, the same fostering care should be extended to those works of learning and genius which enlighten the community, exalt the national character, and add to the power and resources of the country.

That the sale of elaborate works in literature and science is much less productive in Great Britain than in many foreign states; and as high eminence does not lead to those advantages and distinctions which in other countries are vouchsafed to it by the patronage of the sovereign, and by splendid national endowments, a double obligation is imposed on your honourable house to diminish these evils by the grant of a more extended period of copyright.

Your petitioners venture, finally, to submit to your honourable house that, in Scotland particularly, where the few rewards which used to be conferred on clergymen of literary and scientific merit, have been unwisely withdrawn,

and where the income of the professors in her universities has been allowed to suffer great diminution,—these individuals have strong motives to solicit, and additional grounds to expect, that their literary rights be extended, and rendered as beneficial as possible to themselves and their families.

Your petitioners, therefore, implore your honourable house that the bill for the extension of copyright, now about to be read a second time, may pass into a law.

And your petitioners will ever pray.

Signed, in name, presence, and by appointment of the university of St. Andrews.

GEO. BUIST, Rector.

PETITION OF DR. THOMAS ARNOLD.

THE petition of Thomas Arnold, Head-Master of Rugby School,

Sheweth,

That the common law of England, as your petitioner is informed, recognized the right of authors to a perpetual property in their own works.

That the present law, fixed by an act of parliament in the fifty-fourth year of George the Third, recognises the right of authors to a property in their own works during a term of twenty-eight years, or during their own lives, if they extend beyond that period.

That the term to which an author's property is thus limited, is so short that in most instances he is unable to secure the benefit of it even for his own immediate children, to provide for whom seems one of the most natural and fit uses of all property.

That an author's most valuable works being generally composed before he attains to an advanced age, it happens that immediately on his death the property in them ceases and is lost to his family, so that he cannot calculate upon it, as entering into the provision which he may be enabled to make for his children by his will.

That without entering into the question, whether an author's property in his works ought to be perpetual, the right now given him is scarcely more than one of short occupancy, and contrasts strangely with the absolutely unlimited term, during which the law recognises a property in other things, although no title to property seems more strictly just and natural than that which a man has in the direct product of his own faculties and industry.

That with regard to the public interest, it is clearly desirable to encourage not literature simply, but good literature.

That, to give to authors a property in their works for a considerable term, rather than for a short one, is to encourage good literature, and good literature only; for, on the one hand, all works of value are likely to live, and, on the other, works of no value are sure to die.

That there are many works written on subjects not generally popular, which can never have an extensive sale, but

which may be standard works in their kind, and will thus, during a long period, have a steady, though limited demand. The excellence of such works mainly depends on the time and labour bestowed upon them; but, so long as the present law of copyright exists, no man can undertake to do them well but at a certain loss; for no immediate profit can be expected from them in proportion to the writer's sacrifice of time and labour.

That, with respect to historical works, it is the tendency of the present law of copyright to induce a writer to labour after present effect rather than permanent usefulness, because the immediate sale of his book is that to which alone he must look for his remuneration; and generally the labour and actual expense of historical researches is so great that, with the present short term of copyright allowed to authors, it cannot be adequately repaid; so that a writer has a direct interest in doing his work negligently, and contenting himself with the results of the researches of his predecessors, instead of examining or adding to them.

That these considerations apply especially to such persons as, having a professional or other income, independent of literature, are yet able and willing to devote their leisure hours to some literary work, which they hope may have an enduring value. Their actual circumstances enable them to support the expense of literary researches, and to write without hurry; nor are they solicitous for the early success of their labours. An extension of the present term of copyright would allow them to hope that they might thus secure a provision for their children hereafter.

in proportion to their sacrifice of expectations of profit during their own lifetime. But at present this cannot be looked for; and the time, expense, and labour devoted to a great literary work, and which are really indispensable to its excellence, cannot be bestowed on it under the actual law, by any man who has to provide for his family, without a clear sacrifice of their interest.

That if it be indeed true, which, however, your petitioner does not believe, that the booksellers will not give more for an author's copyright for sixty years, than they would now give for it under the actual law, your petitioner submits that in that case the extension of the term of copyright would have a beneficial effect, by withholding authors from parting beforehand with their property in their writings, and inducing them to rely for remuneration only on their book's solid and tried excellence. In other words, it would be a public benefit that an author should look for his profit from the continued, rather than from the great immediate, sale of his writings, it being notorious that real merit is indispensable to the one, while various accidental causes may lead to the other.

Your petitioner, therefore, humbly prays your honourable house that the bill now before it for the extension of the term of copyright, may become a law.

PETITION OF SIR DAVID BREWSTER.

THE humble petition of Sir David Brewster, of Allerby, in the county of Roxburgh, and principal of the united college of Saint Salvator, Saint Leonard's, and Saint Andrew's,

Sheweth,

That your petitioner is the author of various works the copyright of which is unassigned; and that he is engaged in the preparation of others, requiring great labour and research; and which it may not be in his power to publish till he and his family cannot derive any advantage from that part of the privilege which depends upon his own life.

Your petitioner being, therefore, deeply interested in the extension of the term of copyright, implores your honourable house to make such an addition to this term as may afford some chance of remuneration for works which come slowly into public notice, and which frequently are only beginning to be productive when they become the property of the public.

That if your honourable house should not recognise that inherent right which every author has in his intellectual productions, your petitioner humbly begs that the law, as at present constituted, may be stripped of that unjust and partial character, by which young authors receive a higher boon than those who are aged and infirm, and by which works of easy and rapid composition receive a more enduring privilege than those of great research and erudition.

That in a country like Britain, where the great interests of education and knowledge are overlooked amid the never-ending struggles for political power,—where the most ancient institutions for advancing science and literature are suffered to fall into ruin and decay,—where no protection, save one, which is ruinous and illusive, is extended to the highest inventions in the mechanical and chemical arts,—and where genius and talent are not fostered as in other countries by exalted patronage and national endowments,—it becomes a more urgent and solemn duty, on the part of your honourable house, to preserve to the intellectual benefactors of their country that property which is their natural right, and which could have been withheld from them only by legislators who wanted the knowledge to appreciate, and the liberality to develope, the intellectual resources of the nation.

Your petitioner, therefore, implores your honourable house to pass into a law the bill now before it for extending the term of copyright.

PETITION OF JOSEPH HENRY GREEN, ESQ.

THE humble petition of Joseph Henry Green, of Hadley, in the county of Middlesex, esquire, executor of the late Samuel Taylor Coleridge,

Sheweth,

That your petitioner is the sole executor of the last will of the late Samuel Taylor Coleridge.

That as such executor he is interested in the copyright of several works published by the said Samuel Taylor Coleridge in his lifetime, in trust for the benefit of his surviving family.

That, with the exception of a series of miscellaneous poems, such works consist for the most part of very elaborate investigations on the subjects of philosophy and religion.

That the character of such works rendering them devoid of general popular interest, the sale thereof, in the author's lifetime, barely covered the expenses of publication; but that, nevertheless, the reputation and influence of such works collectively, have for a long time been steadily on the increase, and there is now such a demand for the same as will make the property therein of considerable value to the author's family.

That the term of copyright still existing in the principal part of the works of the said Samuel Taylor Coleridge is in

every instance greatly advanced, and, as to some particular works, is within a short time of expiring.

That the said Samuel Taylor Coleridge devoted a life of much pain and distress to the composition of works for which he received no worldly remuneration; but which your petitioner verily believes, on the warrant of weighty testimony, domestic and foreign, are now, and hereafter will be, of fundamental importance to the character and progress of philosophy in this country and through the world at large.

Your petitioner, therefore, with a view of securing some portion of the pecuniary profits of these works to the objects of the author's dying care and affection, most humbly prays your honourable house to pass a measure for such further extension of the legal term of copyright, in works of literature, as to your honourable house may seem fit.

PETITION OF HARTLEY COLERIDGE, ESQ.

The humble petition of Hartley Coleridge, of Grasmere, in the county of Westmoreland, in behalf of the family of the late Samuel Taylor Coleridge,

Sheweth,

That your petitioner is the eldest son of the late Samuel Taylor Coleridge, and has, in common with his brother and sister, no other patrimony than what may accrue from the literary works of his deceased father.

That the aged widow of Samuel Taylor Coleridge is dependent, in large measure, on the sale of his works for those comforts and that freedom from anxiety which her increasing years demand.

That the said Samuel Taylor Coleridge composed and published many learned and laborious treatises for the instruction of his own and of future generations, under circumstances of constant ill-health, and peculiar discouragement; by the whole of which, taken collectively, he was rather a loser than a gainer, yet died in the hope that they would eventually furnish an available fund for his widow and surviving family,—a hope, the fulfilment whereof depends greatly on the course taken by your honourable house, in regard to the bill now under consideration for the extension of copyright.

That the works of the said Samuel Taylor Coleridge have now obtained an increased and increasing circulation; which, as their subjects are for the most part of permanent and philosophic interest, is likely to be maintained and enlarged, to the great benefit of his family, in case the bill before your honourable house do pass into a law.

That the said Samuel Taylor Coleridge has left behind him many valuable manuscripts, the publication whereof may depend in some measure on the passing of the said bill for the protection of copyright.

That the right of property in works of intellect has been recognised by the common law of England, and also by your honourable house, in sundry enactments, the intent whereof, with regard to works of permanent interest, and

of a bulk precluding a rapid sale, is in a manner baffled by the present imperfect provisions and brief duration of copyright.

That a perpetual copyright is established in the case of the Holy Scriptures, the books which above all others it behoveth should be cheap and accessible to all.

That a farther protection by law is necessary to prevent the issue of incorrect and garbled editions, sometimes containing pieces never intended for the public eye, hasty and juvenile productions, which the author's maturer judgment would have rejected, and compositions to which the authors' names have been falsely affixed.

That your petitioner, himself engaged in the profession of literature, but chiefly in the more popular and temporary branches, begs leave to suggest, that the proposed extension of copyright can in nowise obstruct the diffusion of knowledge, or injure the poorer and middle classes of society.

First,—Because the works whose price and issue can be affected by the operation of the extended copyright, are seldom purchased at first hand by any but persons of substance; knowledge arriving at the operative part of the community by tracts, pamphlets, newspapers, and other periodical publications; or through circulating, subscription, lending, and parochial libraries; and the same is the case to a great extent with the middle, trading, and agricultural orders.

Second,—Because under the existing law new books, especially works of science, and such as require pictorial

illustration, are necessarily sold at a price which sets them above the reach of any but the opulent; whereas the proposed protection of copyright would enable them to appear at reasonable rates and in forms adapted to moderate incomes.

Lastly—Your petitioner humbly suggests that in matters of profit and loss not only the number of those who may lose or gain is to be considered, but the amount of loss and gain to each individual. Now, in the present case, the possible loss to the public from the extension of copyright, distributed over an indefinite number of persons, can amount to but a few shillings yearly, whereas the loss to the author, from the present imperfect system of protection, may be the whole fruit of his labours.

Your petitioner therefore prays that the bill before your honourable house for the extension of copyright may pass into a law.

And your petitioner will ever pray.

PETITION OF THOMAS CARLYLE, ESQ.

The petition of Thomas Carlyle, a writer of books,

Humbly sheweth,

That your petitioner has written certain books, being incited thereto by various innocent or laudable considerations, chiefly by the thought that said books might in the end be found to be worth something.

That your petitioner had not the happiness to receive from Mr. Thomas Tegg, or any publisher, re-publisher, printer,

bookseller, bookbuyer, or other the like man or body of men, any encouragement or countenance in writing of said books, or to discern any chance of receiving such, but wrote them by effort of his own and the favour of Heaven.

That all useful labour is worthy of recompense—that all honest labour is worthy of the chance of recompense—that the giving and assuring to each man what recompense his labour has actually merited may be said to be the business of all legislation, polity, government, and social arrangement whatsoever among men; a business indispensable to attempt, impossible to accomplish accurately, difficult to accomplish without inaccuracies, that become enormous, insupportable, and the parent of social confusions which never altogether end.

That your petitioner does not undertake to say what recompense in money this labour of his may deserve, whether it deserve any recompense in money, or whether money in any quantity could hire him to do the like.

That this, his labour, has found hitherto, in money or money's worth, small recompense or none; that he is by no means sure of its ever finding recompense, but thinks that, if so, it will be at a distant time, when he, the labourer, will probably no longer be in need of money, and those dear to him will still be in need of it.

That the law does at least protect all persons in selling the production of their labour at what they can get for it, in all market-places, to all lengths of time,—much more than this the law does to many, but so much it does to all, and less than this to none.

That your petitioner cannot discover himself to have done unlawfully in this his said labour of writing books, or to have become criminal, or have forfeited the law's protection thereby: contrariwise, your petitioner believes firmly that he is innocent in said labour; that if he be found in the long run to have written a genuine enduring book, his merit therein, and desert towards England, and English, and other men, will be considerable—not easily estimable in money; that, on the other hand, if his book prove false and ephemeral, he and it will be abolished and forgotten, and no harm done.

That in this manner your petitioner plays no unfair game against the world, his stake being life itself, so to speak (for the penalty is death by starvation); and the world stake nothing till once it see the dice thrown, so that in any case the world cannot lose.

That in the happy and long doubtful event of the game's going in his favour, your petitioner submits that the small winnings thereof do belong to him or his, and that no other mortal has justly either part or lot in them at all, now, henceforth, or for ever.

May it therefore please your honourable house to protect him in said happy and long doubtful event, and (by passing your copyright bill) forbid all Thomas Teggs, and other extraneous persons, entirely unconcerned in this adventure of his, to steal from him his small winnings for a space of sixty years at shortest. After sixty years, unless your honourable house provide otherwise, they may begin to steal.

PETITION OF SAMUEL WELLS, Esq., Barrister at Law.

That your petitioner understands a bill is now pending before your honourable house for extending and enlarging the term and interest of authors in the copyright of their several and respective works.

That your petitioner having written and published, after some years of labour and research, and at a heavy expense, a work called the "History of the Bedford Level," which having only a local interest, such work has naturally a very limited circulation, and its sale will be extended over a long period, and consequently, slow in its return for the heavy outlay incurred in its composition and publication.

That your petitioner and his family, under the present law of copyright, would, from these circumstances, be deprived of all interest in the work long ere any adequate profit can be actually received.

That your petitioner confesses that he is unable to discover any forcible reason why property arising from the labour of literature, should not have equal protection as that arising from the labour of the hand, or from any other benefit derived from the soil of the country itself.

Your petitioner, therefore, on behalf of himself and family, and also anxious for the promotion of the cause of literature in general, humbly prays your honourable house to pass the bill so introduced into a law.

PETITION OF THE CORPORATION OF EDINBURGH.

THE petition of the Lord Provost, Magistrates, and Council of the city of Edinburgh,

Humbly sheweth,

That your petitioners have observed with satisfaction that a bill has been brought into your honourable house to amend the law of copyright.

That your petitioners regard the measure as founded both on justice to authors and expediency towards the public.

May it, therefore, please your honourable house to pass said bill.

And your petitioners will ever pray.

Signed in our name, and by our appointment, and the seal of the city affixed hereto, at Edinburgh, the 15th day of April, 1839.

(Signed) JAMES FORREST, lord provost.

PETITION OF THOMAS HOOD, ESQ.*

THE humble petition of the undersigned Thomas Hood,

Sheweth,

That your petitioner is the proprietor of certain copyrights which the law treats as copyhold, but which, in justice and equity, should be his freeholds. He cannot conceive how "Hood's Own," without a change in the title deeds as well as the title, can become "Everybody's Own" hereafter.

That your petitioner may burn or publish his manuscripts at his own option,—and enjoys a right in and control over his own productions which no press, now or hereafter, can justly press out of him.

That as a landed proprietor does not lose his right to his estate in perpetuity by throwing open his grounds for the convenience or gratification of the public, neither ought the property of an author in his works to be taken from him —unless all parks become commons.

That your petitioner, having sundry snug little estates in view, would not object, after a term, to contribute his

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* This petition was thought too richly studded with jests to be presented to the House of Commons; but its wit embodies too much wisdom to allow of its exclusion from this place. It is therefore inserted, by permission of its excellent author.

private share to a general scramble, provided the landed and monied interests, as well as the literary interest, were thrown into the heap; but that, in the mean time, the fruits of his brain ought no more to be cast amongst the public than a Christian woman's apples or a Jewess's oranges.

That cheap bread is as desirable and necessary as cheap books, but it hath not yet been thought just or expedient to ordain that, after a certain number of crops, all cornfields shall become public property.

That whereas in other cases long possession is held to affirm a right to property it is inconsistent and unjust that a mere lapse of twenty-eight, or any other term of years, should deprive an author at once of principal and interest in his own literary fund. To be robbed by Time is a sorry encouragement to write for Futurity!

That a work which endures for many years must be of a sterling character, and ought to become national property —but at the expense of the public, or at any expense save that of the author or his descendants. It must be an ungrateful generation that in its love of cheap copies can lose all regard for "the dear originals."

That whereas your petitioner has sold sundry of his copyrights to certain publishers for a sum of money, he does not see how the public, which is only a larger firm, can justly acquire even a share in copyright except by similar means, namely, by purchase or assignment. That the public having constituted itself by law the executor and legatee of the author, ought, in justice and according to

practice in other cases, to take to his debts as well as his literary assets.

That when your petitioner shall be dead and buried, he might with as much propriety and decency have his body snatched as his literary remains.

That by the present law, the wisest, virtuousest, discreetest, best of authors is tardily rewarded, precisely as a vicious, seditious, or blasphemous writer is summarily punished—namely, by the forfeiture of his copyright.

That in case of any infringement on his copyright your petitioner cannot conscientiously or comfortably apply for redress to the law whilst it sanctions universal piracy hereafter.

That your petitioner hath two children who look up to him, not only as the author of the "Comic Annual," but as the author of their being. That the effect of the law as regards an author, is virtually to disinherit his next of kin, and cut him off with a book instead of a shilling.

That your petitioner is very willing to write for posterity on the lowest terms, and would not object to the long credit, but that when his heir shall apply for payment to posterity, he will be referred back to antiquity.

That as a man's hairs belong to his head, so his head should belong to his heirs—whereas, on the contrary, your petitioner hath ascertained, by a nice calculation, that one of his principal copyrights will expire on the same day that his only son should come of age. The very law of nature protests against an unnatural law which compels an author to write for anybody's posterity except his own.

Finally, whereas it has been urged, "if an author writes

for posterity, let him look to posterity for his reward"—your petitioner adopts that very argument, and on its very principle, prays for the adoption of the bill introduced by Mr. Serjeant Talfourd, seeing that by the present arrangement posterity is bound to pay everybody or anybody but the true creditor.

PETITION OF ENGLISH AUTHORS.

THE humble petition of the undersigned authors, and other persons connected with literature and science,

Sheweth,

That your petitioners have observed, with satisfaction and with gratitude, the attention which your honourable house has paid to the interests of literature as they are affected by the law of copyright.

That your petitioners believe that the term during which the law secures to authors the profits arising from the productions of their own industry and genius, is insufficient to provide for the fair reward of works which are written to endure; that the extension of that term proposed by the bill, now before your honourable house, would encourage the composition of such works, that it would enable individuals to devote their powers to the lasting benefit and delight of mankind, without the apprehension that, in so doing, they should impoverish their own descendants—and that, while it would tend to the profit only of the greatest

and best of those engaged in literature, it would confer dignity and honour on the pursuits of all.

Your petitioners, therefore, humbly pray your honourable house that the bill to amend the law relating to copyright, now before your honourable house, may pass into a law.

And your petitioners will ever pray.

Rd. Hy. Horne.
Marguerite Blessington.
Henry Malden.
Thomas Campbell.
T. Hewitt Key.
W. Harrison Ainsworth.
Harriet Martineau.
Leman Blanchard.
H. H. Milman.
Robert Browning.
H. Taylor.
A. Fonblanque.
John Forster.
A. Hayward.
Douglas Jerrold.
Henry Nelson Coleridge.
W. J. Fox.
John Poole.
C. W. Dilke.
Leigh Hunt.
Thomas Hood.

THOMAS CARLYLE.
RICHARD CATTERMOLE.
CHARLES DICKENS.
COUNT D'ORSAY.
MARY RUSSELL MITFORD.
HENRY STEBBING.
GEORGE P. R. JAMES.
THOMAS ROSCOE.
SAMUEL ROGERS.
JOANNA BAILLIE.
R. W. PROCTER.
ALLAN CUNNINGHAM.

PETITIONS FROM SCOTCH AUTHORS.

PETITIONS in the same terms with the last were signed by many of the most eminent authors of Scotland. The petition from Edinburgh was signed by John Wood, Sheriff of Peeblesshire; Patrick Skene, Advocate; Thomas Charles Hope, Professor of Chemistry; George Dunbar, Professor of Greek; Adam Fergusson, Deputy Keeper of the Regalia of Scotland; Walter Scott, of Abbotsford; Thomas Chalmers, LL.D., T.P.; Alex. T. Brunton, Professor of Languages; John Wilson, Professor of Moral Philosophy; James Pillans, Professor of Humanity; R. Christison, Professor of the Materia Medica; Thomas Stewart Trail,

Professor of Medical Jurisprudence; John Home, Professor of the Practice of Medicine; ——— Gunner, Professor of Rhetoric and Belles Lettres; W. O. Anson, M.D., Professor of the Institutes of Medicine; John Abercrombie, M.D., First Physician to her Majesty in Scotland; A. Dunlop, Advocate; Henry Glassford Bell, Advocate; George Bowdie, Historiographer to Her Majesty for Scotland; J. S. Lockhart, D.C.L., Oxon; and on behalf of the Rev. Archibald Alison, since deceased.

Several petitions from Glasgow, also in the same terms, were signed by D. M'Farlan, D.D., Principal of Glasgow University; S. M'Gill, D.D.; James Thomson, LL.D.; Robert Buchan, Professor of Logic; Robert Davidson, Professor of Law; W. M'Turk, Professor of Ecclesiastical History; E. L. Lushington, Professor of Greek; William Ramsay, Professor of Humanity; John Burns, Professor of Surgery; A. D. Anderson, M.D.; James Reddie, Esq.; Rev. Dr. Forbes; Rev. Dr. Henderson; Rev. Dr. Gillies; J. Le Fowle, M.A.; Rev. Dr. Macleod; — — M'Gilrey; Rev. Alexander Turner; Rev. Robert Buchan; J. A. Laurie, M.D., Professor of Surgery; W. J. Hooper, Regius Professor of Botany; Laurence Hill, LL.B.; James Cleland, LL.D.; Rev. Dr. Smyth; Rev. Robert Montgomery; Rev. Dr. Greville Ewing; William Smith, F.S.A., Scotland; William Angus, M.A.; Charles Hutcheson; James Brash, bookseller; Donald Cuthbertson; William MacGregor; William Grey; Henry Robertson, M.A.; W. S. Ashmed; Rev. Dr. Wardlaw; James Smith, F.R.S., Professor, St. Andrew's University; Thomas Edington, F.R.S.,

Treasurer, St. Andrew's University; Alexander M'Callum; Allen T. Murray; Alexander J. Hanney, N.P., Professor Physic, St. Andrew's University; Arthur Forbes; Dugald Forbes; William Darle; David Watson, Bookseller; and James Sheridan Knowles, who, being accidentally at Glasgow, added his signature.

THE END.

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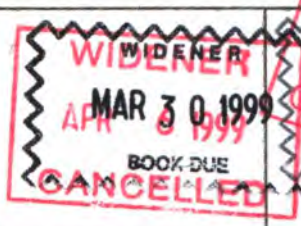
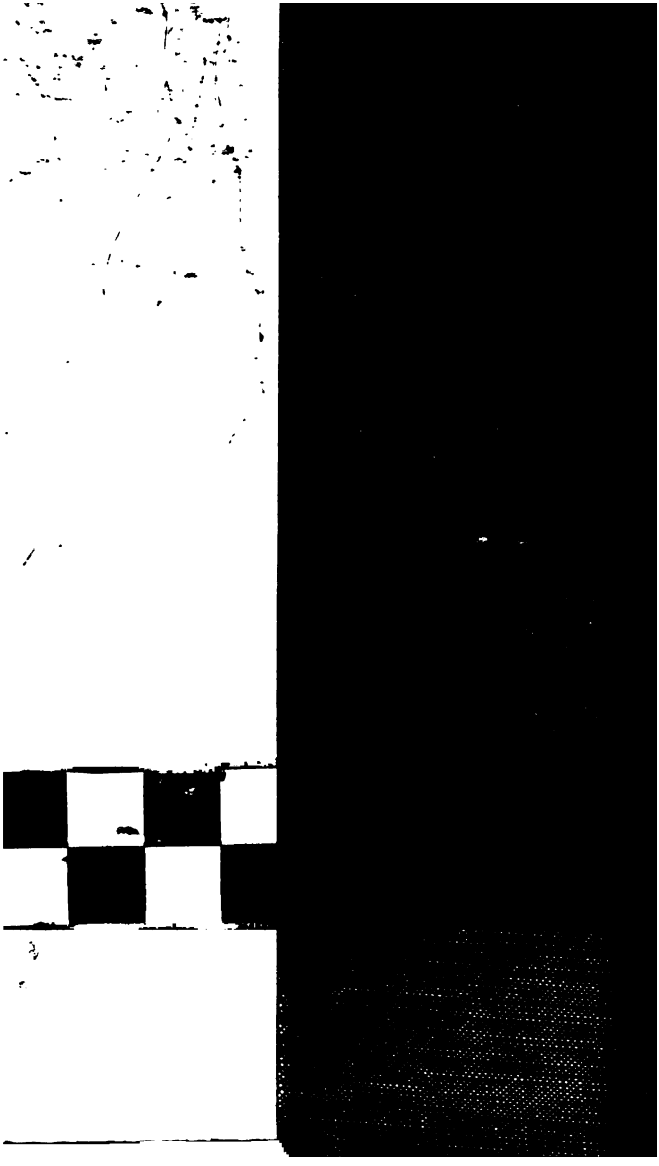
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